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Assistant Commissioner for Patents Washington, D.C. 20231
On February 15, 2002

PATENT
Attorney Docket No.: 17516-002580US

TOWNSEND and TOWNSEND and CREW LLP

By: Kimberly Badiei

Kimberly Badiei

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

JULIAN, Christopher A. et al.

Application No.: 09/998,004

Filed: November 28, 2001

For: ENDOSCOPIC BEATING-
HEART STABILIZER AND VESSEL
OCCLUSION FASTENER

Examiner: Unassigned

Art Unit: 3739

PETITION IN RESPONSE TO NOTICE
TO FILE MISSING PARTS OF
NONPROVISIONAL APPLICATION

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APR 15 2002

OFFICE OF PETITIONS

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Notice to File Missing Parts mailed December 17, 2001, Applicants hereby submit this prompt petition to contend that the figures cited as omitted (Figs. 28B, 29-34, 35A, 35B, 36A, 36B, 37, 38A, 38B, 39A, 39B, 40, 40A, 41A, 41B, 42, 43A-43C) were in fact deposited in the U.S. Patent and Trademark Office with the nonprovisional application papers for the above-named application.

Enclosed herewith are:

- 1) A true copy of the Express Mail receipt with mailing no. 09998004 EL387639659US;
- 2) A true copy of the postcard sent with the application showing the inclusion of 45 sheets of Informal Drawings submitted on November 28, 2001 and Express Mail mailing no. EL387639659US;
- 3) A true copy of the same postcard returned from the U.S.P.T.O. affording the application the application number 09/998004 with a filing date of November 28, 2001;
- 4) A true copy of the Application Transmittal Letter specifying 45 total sheets of Drawings;

03/07/2002 SMINASS1 00000019 201430

05 FC:122 130.00 CH

Adjustment date: 07/16/2002 AKELLEY
03/07/2002 SMINASS1 00000019 201430
05 FC:122 130.00 CR

- 5) A true copy of the Application Data Sheet specifying 45 total drawing sheets;
- 6) A true copy of the 45 original drawing sheets included in the application, each sheet having a label specifying the sheet number out of 45 total sheets; and
- 7) A request for corrected filing receipt.

Please charge \$130.00, pursuant to 37 CFR § 1.17(h), to Deposit Account 20-1430. Please charge any additional fees or credit overpayment to the above Deposit Account. This petition is submitted in triplicate.

REMARKS

On November 28, 2001, Applicants filed the above-identified application with the U.S.P.T.O., including, among other items, 45 sheets of informal drawings. Applicants enclosed a postcard with the application, return receipt of which serves as a verification to the Applicants that the U.S.P.T.O. received the application with the contents itemized on the postcard.

As part of the Notice of Missing Parts mailed December 17, 2001, it is stated that Figs. 28B, 29-34, 35A, 35B, 36A, 36B, 37, 38A, 38B, 39A, 39B, 40, 40A, 41A, 41B, 42, 43A-43C appear to be omitted in the originally filed application wherein the total number of drawing sheets would have been 29 rather than 45.

We hereby offer evidence that the application, including all 45 sheets of informal drawings, and accompanying documents were timely filed on November 28, 2001 and request that the entire set of informal drawings be accorded the same filing date of November 28, 2001.

Enclosed is a true copy of the Express Mail receipt with mailing no. EL387639659US, indicating "Date In: 11-28-01" and postmarked as such. This receipt indicates that the application and accompanying documents, were timely mailed to Box Patent Application, Assistant Commissioner of Patents and Trademarks, Washington, DC 20231-0001 on November 28, 2001.

Also enclosed is a true copy of the postcard sent in with the application to show that all documents were mailed together, including 45 sheets of informal drawings,

on the same date, as can be seen from a comparison of the Express Mail mailing no. on the postcard and Express Mail receipt. A true copy of the same postcard returned from the U.S.P.T.O. acknowledging receipt of all items listed on the postcard, including 45 informal drawings sheets, is also included. The U.S.P.T.O. provided these items the application number 09/998004 and filing date of November 28, 2001, as shown by the barcode sticker.

Enclosed is a true copy of the Application Transmittal letter specifying 45 total sheets of Drawings, a true copy of the Application Data Sheet, specifying 45 total drawing sheets and a true copy of the 45 original drawings included in the application each sheet having a label specifying the sheet number out of 45 total sheets.


In addition, a request for corrected filing receipt is included to correct the number of drawings to specify 45 drawings rather than 29 drawings.

In view of the evidence provided herein establishing that all 45 drawings of the above-identified application were timely filed by Express Mail deposit with the U.S. Postal Service on November 28, 2001, Applicants respectfully request that all 45 drawings of said application be accorded the filing date of November 28, 2001.

CONCLUSION

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,


Lynn M. Thompson
Reg. No. 47,991

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: (415) 576-0200 Fax: (415) 576-0300

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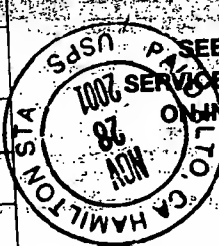
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Date In 11-28-01	<input type="checkbox"/> 12 Noon <input checked="" type="checkbox"/> 3 PM	Postage \$ 16.25	
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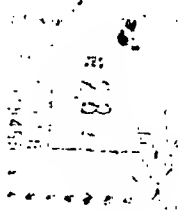
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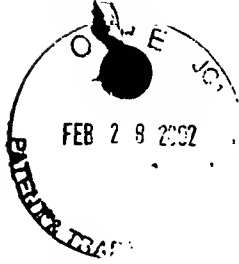
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17516-002580US





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UTILITY PATENT APPLICATION

Filing Acknowledgment

Mailing Date:	November 28, 2001	Serial No.	Unassigned
File No.:	17516-002580US	Attorney:	JMH/jke
Applicant:	JULIAN, Christopher A. et al.		
Title:	Endoscopic Beating-Heart Stabilizer and Vessel Occlusion Fastener		

Please stamp the date of receipt of the enclosed documents and return this card to addressee

- ☒ Utility Patent Application Transmittal
- ☒ Unsigned Declaration
- ☒ ADS
- ☒ Specification, 54pgs
- ☒ Informal Drawings 45 sheets
- ☒ Return Postcard

DUE DATE: November 28, 2001 Express Mail Label No. EL387639659US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

UTILITY PATENT APPLICATION

Filing Acknowledgment

Mailing Date:	November 28, 2001	Serial No.	Unassigned
File No.:	17516-002580US	Attorney:	JMH/jke
Applicant:	JULIAN, Christopher A. et al.		
Title:	Endoscopic Beating-Heart Stabilizer and Vessel Occlusion Fastener		

Please stamp the date of receipt of the enclosed documents and return this card to addressee

- ☒ Utility Patent Application Transmittal
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- ☒ Specification, 54pgs
- ☒ Informal Drawings 45 sheets
- ☒ Return Postcard

J1011 U.S. PTO

09/998004



11/28/01

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UTILITY PATENT APPLICATION TRANSMITTAL

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FEB 28 2002

Attorney Docket No.

017516-002580US

First Inventor

JULIAN, CHRISTOPHER A.

Title

ENDOSCOPIC BEATING-HEART STABILIZER AND VESSEL
OCCLUSION FASTENER

Express Mail Label No.

EL387839659US

(Only for new nonprovisional applications under 37 C.F.R. § 1.53(b))

APPLICATION ELEMENTS

See MPEP chapter 600 concerning design patent application contents.

1. ☐ Fee Transmittal Form (e.g., PTO/SB/17)
(Submit an original and a duplicate for fee processing)
2. ☒ Applicant claims small entity status.
See 37 CFR 1.27.
3. ☒ Specification (Total Pages 54)
(preferred arrangement set forth below)
- Descriptive title of the Invention
 - Cross References to Related Applications
 - Statement Regarding Fed sponsored R & D
 - Reference to sequence listing, a table, or a computer program listing appendix
 - Background of the Invention
 - Brief Summary of the Invention
 - Brief Description of the Drawings (if filed)
 - Detailed Description
 - Claim(s)
 - Abstract of the Disclosure
4. ☒ Drawing(s) (35 U.S.C.113) (Total Sheets 45)
5. Oath or Declaration (Total Pages 2)
- a. ☒ Unexecuted Declaration
- b. ☐ Copy from a prior application (37 CFR 1.63 (d))
(for a continuation/divisional with Box 18 completed)
- i. ☐ DELETION OF INVENTOR(S)
Signed statement attached deleting inventor(s)
named in the prior application, see 37 CFR
1.63(d)(2) and 1.33(b).
6. ☒ Application Data Sheet. See 37 CFR 1.76

ADDRESS TO

 Assistant Commissioner for Patents
 Box Patent Application
 Washington, DC 20231

7. ☐ CD-ROM or CD-R in duplicate, large table or
Computer Program (Appendix)
8. Nucleotide and/or Amino Acid Sequence Submission
(if applicable, all necessary)
- a. ☐ Computer Readable Form (CRF)
- b. Specification Sequence Listing on:
- i. ☐ CD-ROM or CD-R (2 copies); or
- ii. ☐ paper number of pages
- c. ☐ Statements verifying identity of above copies

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ACCOMPANYING APPLICATIONS PARTS

9. ☐ Assignment Papers (cover sheet & document(s))
10. ☐ 37 C.F.R. § 3.73(b) Statement ☐ Power of
(when there is an assignee) Attorney
11. ☐ English Translation Document (if applicable)
12. ☐ Information Disclosure ☐ Copies of IDS
Statement (IDS)PTO-1449 Citations
13. ☐ Preliminary Amendment
14. ☒ Return Receipt Postcard (MPEP 503)
(Should be specifically itemized)
15. ☐ Certified Copy of Priority Document(s)
(if foreign priority is claimed)
16. ☐ Nonpublication Request under 35 U.S.C.
122(b)(2)(B)(i). Applicant must attach form PTO/SB/35
or its equivalent
17. ☐ Other:

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment,
or in an Application Data Sheet under 37 CFR 1.76:

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP)

of prior application No: _____ /

Prior application information: Examiner _____

Group Art Unit:

For CONTINUATION or DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied
under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by
reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

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Name (Print/Type)

James M. Helsin

Registration No. (Attorney/Agent)

29,541

Signature

Date

November 28, 2001

FEE TRANSMITTAL for FY 2001

Petee fees are subject to annual revision.

Complete If Known

Application Number 09/998,004
Filing Date November 28, 2001
First Named Inventor JULIAN, CHRISTOPHER
Examiner Name
Group Art Unit 3739
Attorney Docket No. 017518-002580US

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METHOD OF PAYMENT

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- ☒ Charge Any Additional Fee Required
Under 37 CFR 1.18 and 1.17
☒ Applicant claims small entity status.
See 37 CFR 1.27

2. ☐ Payment Enclosed:

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FEE CALCULATION

1. BASIC FILING FEE

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
101	740	201	370	Utility filing fee	370
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	

SUBTOTAL (1)

(\$370)

2. EXTRA CLAIM FEES

Total Claims	Extra Claims	Fee from below	Fee Paid
102	-20**	82	\$9
12	-3**	9	\$42

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claim, if not paid
109	84	209	42	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2)

(\$1118)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	65
127	50	227	25	Surcharge - late provisional filing fee or cover sheet.	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,280	241	640	Petition to revive - unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	130
123	50	123	50	Petitions related to provisional applications	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
148	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(e))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	

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*Reduced by Basic Filing Fee Paid

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Complete (if applicable)

Name (Print/Type)	Lynn M. Thompson	Registration No. (Attorney/Agent)	47,991	Telephone	850-328-2400
Signature	<i>Lynn Thompson</i>			Date	February 15, 2002

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/998,004
	Filing Date	November 28, 2001
	First Named Inventor	JULIAN, CHRISTOPHER A.
	Group Art Unit	3739
	Examiner Name	
Total Number of Pages in This Submission	Attorney Docket Number	017516-002580US

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ENCLOSURES (check all that apply)

☒ Fee Transmittal Form☐ Fee Attached☐ Amendment / Response☐ After Final☐ Affidavits/declaration(s)☐ Extension of Time Request☐ Express Abandonment Request☐ Information Disclosure Statement☐ Assignment Papers
(for an Application)☐ Drawing(s)☐ Licensing-related Papers☐ Petition Routing Slip (PTO/SB/69)
and Accompanying Petition☐ Petition to Convert to a
Provisional Application☐ Power of Attorney, Revocation
Change of Correspondence Address☐ Terminal Disclaimer☐ Request for Refund☐ CD, Number of CD(s)☐ After Allowance Communication to
Group☐ Appeal Communication to Board of
Appeals and Interferences☐ Appeal Communication to Group
(Appeal Notice, Brief, Reply Brief)☐ Proprietary Information☐ Status Letter☒ Other Enclosure(s)
(please identify below):Copy of Notice to File Missing Parts
Declaration

Power of Attorney

Statement Under 37 CFR 3.73(b)

Petition in Response to Notice to File
Missing Parts

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Document(s)☐ Response to Missing Parts/
Incomplete Application☒ Response to Missing
Parts under 37 CFR
1.52 or 1.53

Remarks

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

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and
Individual name

Townsend and Townsend and Crew LLP

Lynn M. Thompson

Reg. No. 47,991

Signature

Date

February 15, 2002

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Kimberly Badiei

Signature

Date

February 15, 2002



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Application Data Sheet

Application Information

Application number::	Unassigned	COPY OF PAPERS ORIGINALLY FILED
Filing Date::	11/28/01	
Application Type::	Regular	
Subject Matter::	Utility	
Title::	ENDOSCOPIC BEATING-HEART STABILIZER AND VESSEL OCCLUSION FASTENER	
Attorney Docket Number::	017516-002580US	
Request for Early Publication::	No	
Request for Non-Publication::	No	
Total Drawing Sheets::	45	
Small Entity?::	Yes	
Petition included?::	No	
Secrecy Order in Parent Appl.::	No	

Applicant Information

Applicant Authority Type::	Inventor
Primary Citizenship Country::	US
Status::	Full Capacity
Given Name::	CHRISTOPHER
Middle Name::	A.
Family Name::	JULIAN
City of Residence::	Los Gatos
State or Province of Residence::	CA
Country of Residence::	US
Street of Mailing Address::	546 Woodland Ridge
City of Mailing Address::	Los Gatos
State or Province of mailing address::	CA
Country of mailing address::	USA

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Primary Citizenship Country:: US
Status:: Full Capacity
Given Name:: DEAN
Middle Name:: F.
Family Name:: HOORNAERT
City of Residence:: Mountain View
State or Province of Residence:: CA
Country of Residence:: US
Street of Mailing Address:: 1945 Latham Street, #11
City of Mailing Address:: Mountain View
State or Province of mailing address:: CA
Country of mailing address:: USA
Postal or Zip Code of mailing address:: 94040

Applicant Authority Type:: Inventor
Primary Citizenship Country:: US
Status:: Full Capacity
Given Name:: MARGARET
Middle Name:: M.
Family Name:: ISAAC
City of Residence:: Redwood City
State or Province of Residence:: CA
Country of Residence:: US
Street of Mailing Address:: 2101 Jefferson Avenue
City of Mailing Address:: Redwood City
State or Province of mailing address:: CA
Country of mailing address:: USA
Postal or Zip Code of mailing address:: 94062

Correspondence Information

Correspondence Customer Number:: 20350

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Representative Information

Representative Customer Number:: 20350

Domestic Priority Information

Application::	Continuity Type::	Parent Application::	Parent Filing Date::
This application	Claims priority from::	60/253,484	11/28/2000
	claims priority from::	60/285,641	04/19/2001
	claims priority from::	60/290,556	05/10/2001
	claims benefit from::	09/436,524	11/09/1999

Assignee Information

Assignee Name:: Intuitive Surgical, Inc.
Street of mailing address:: 1340 West Middlefield Road
City of mailing address:: Mountain View
State or Province of mailing address:: CA
Country of mailing address:: USA
Postal or Zip Code of mailing address:: 94043

PA 3186530 v1

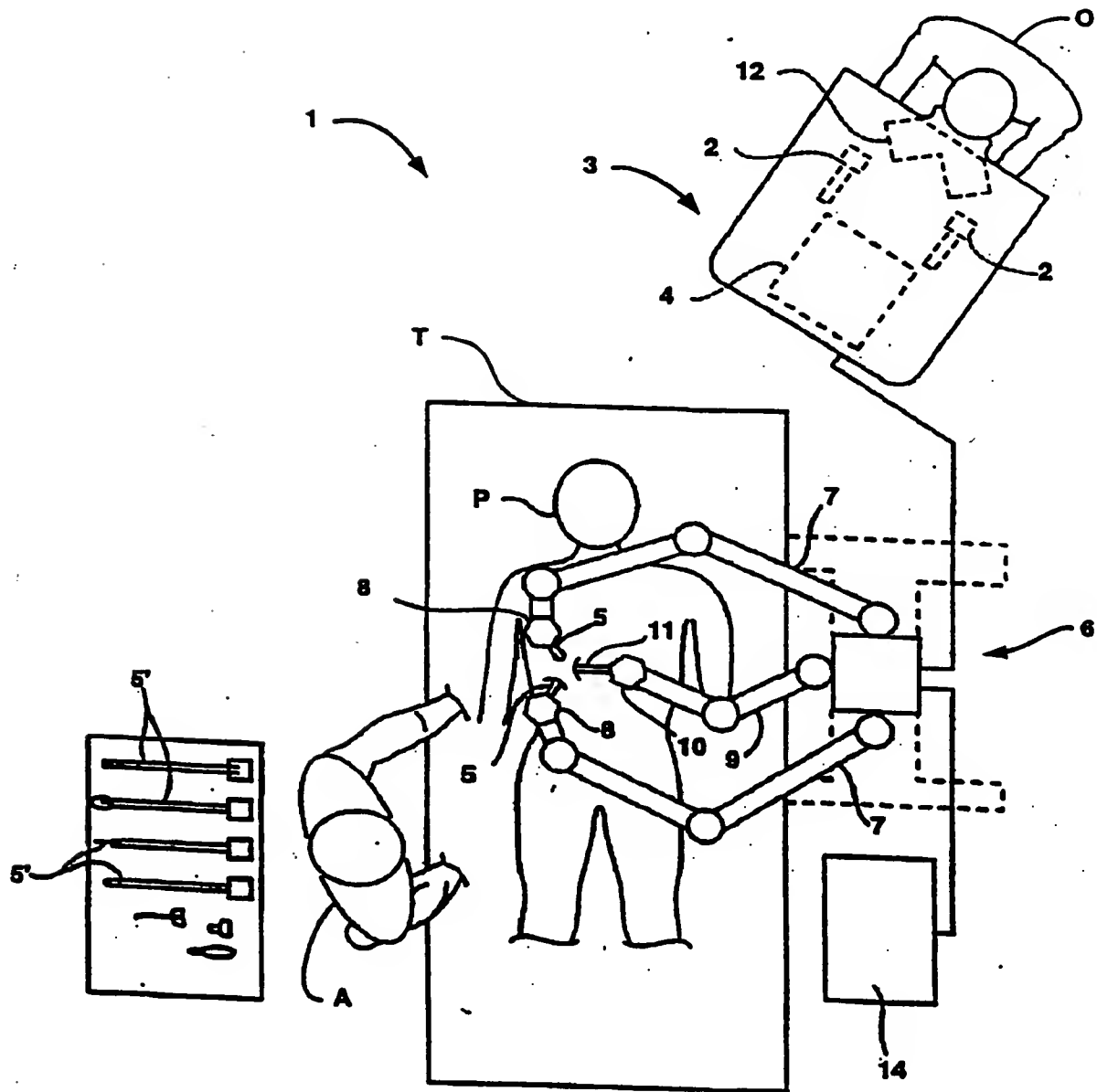


Fig. 1

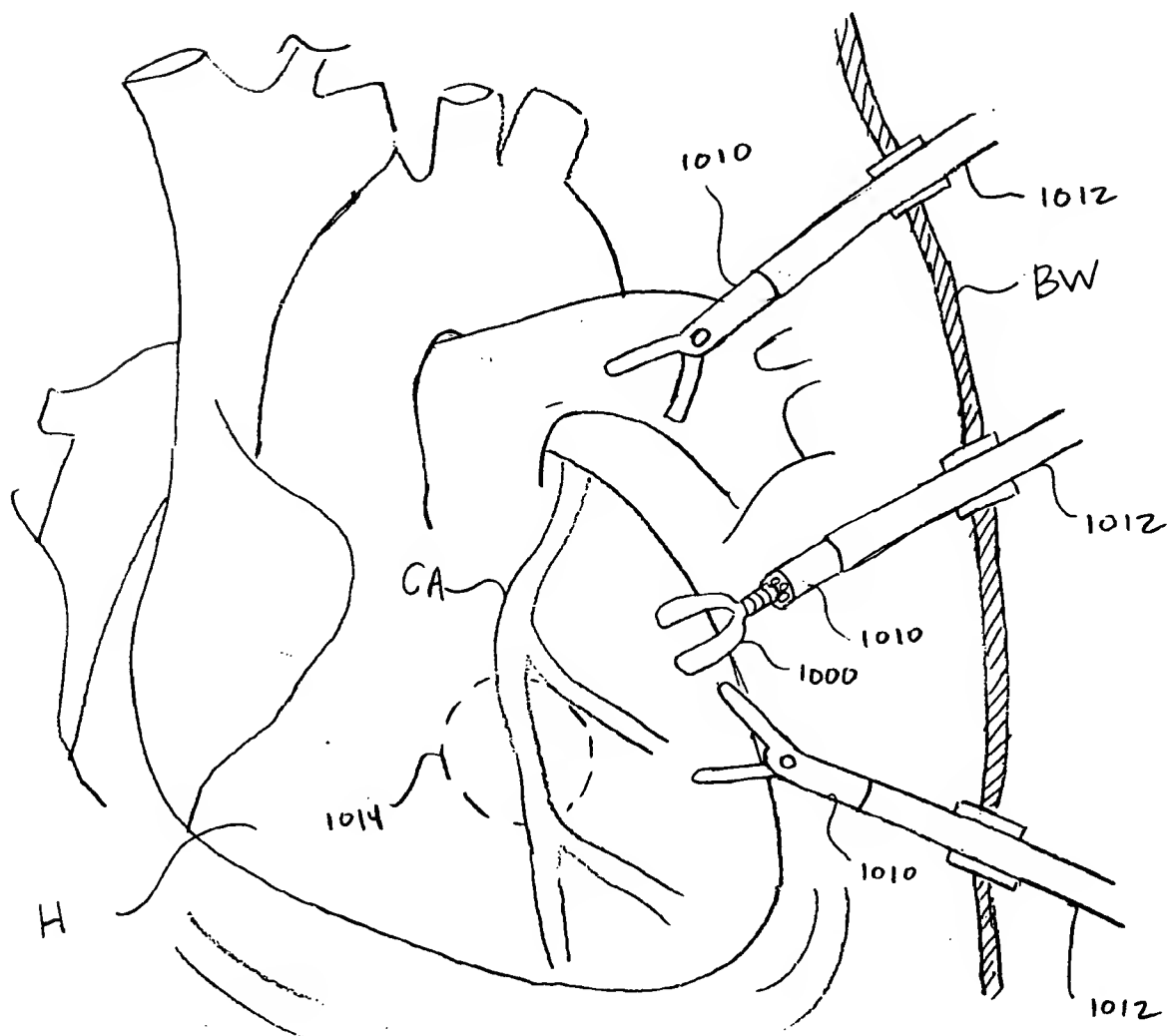




FIG-3

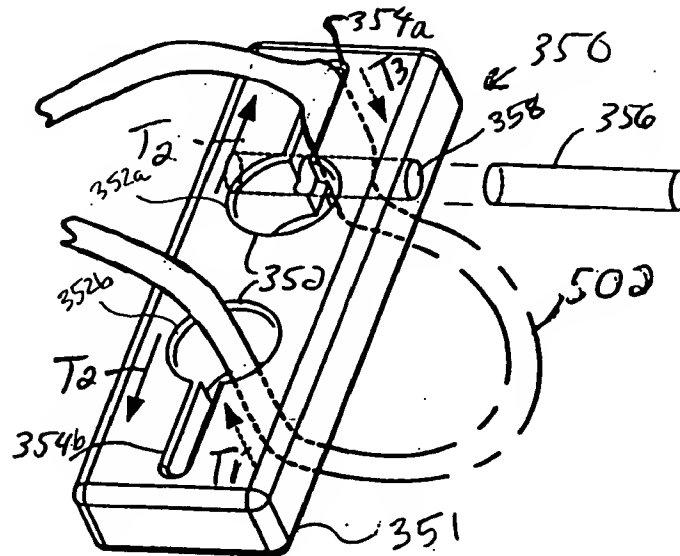


FIG. 4A

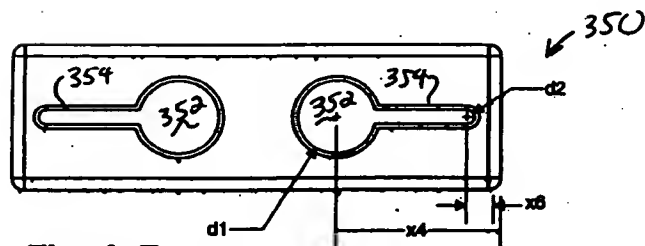


Fig. 4 B

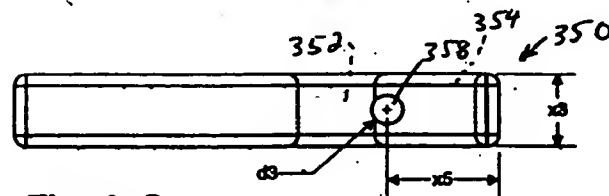


Fig. 4 C

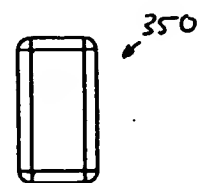


FIG. 4E

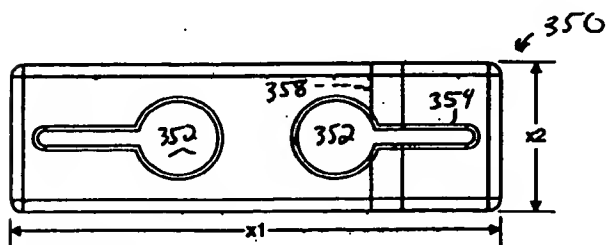


Fig. 4 D

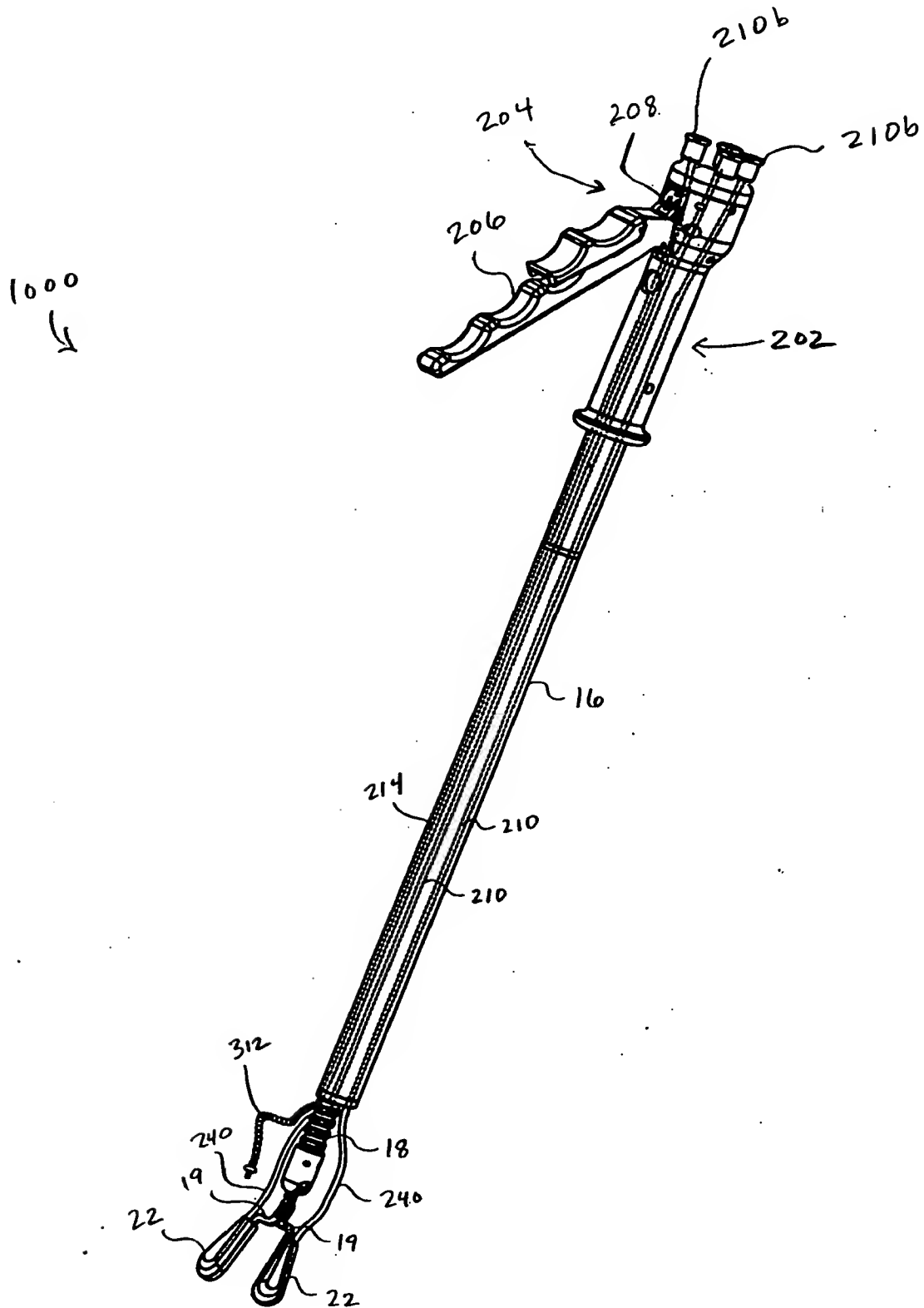
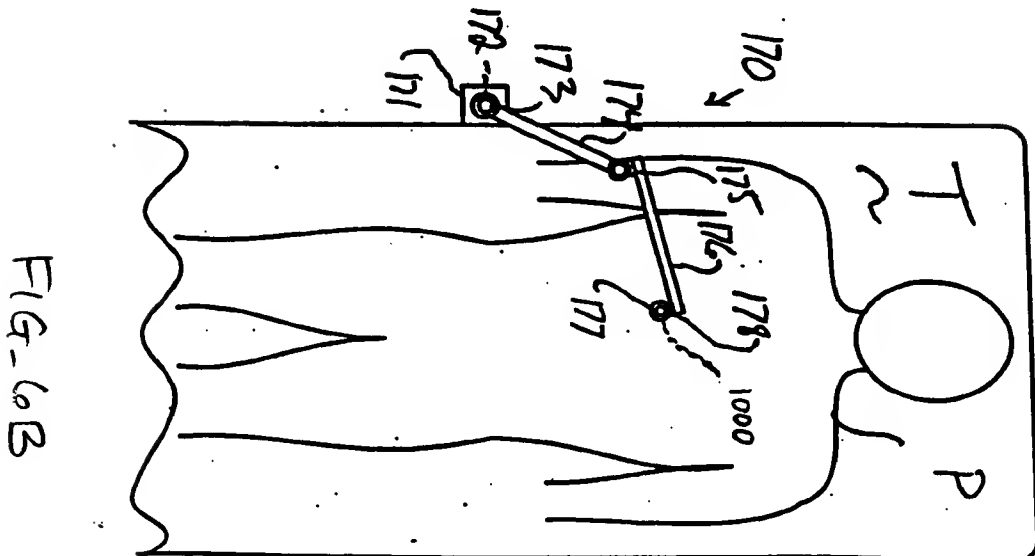
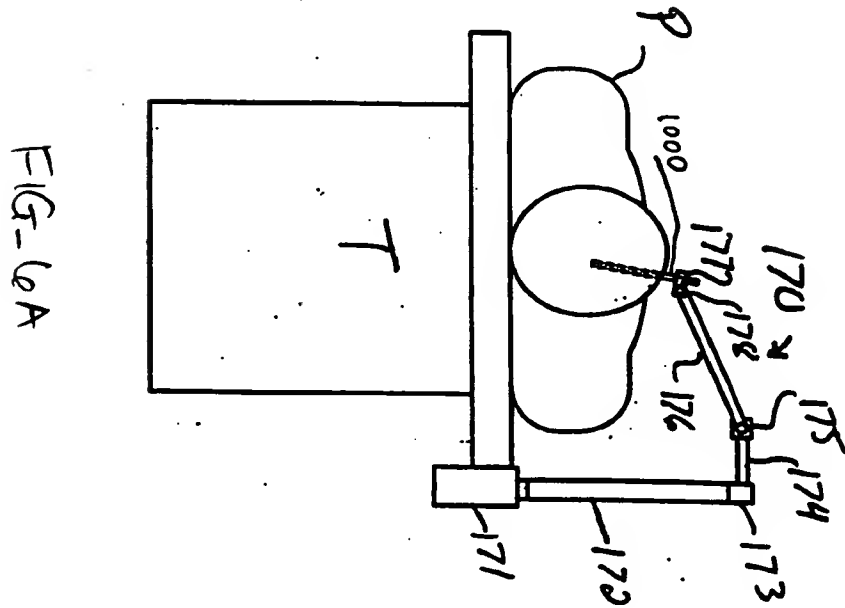


FIG. 5



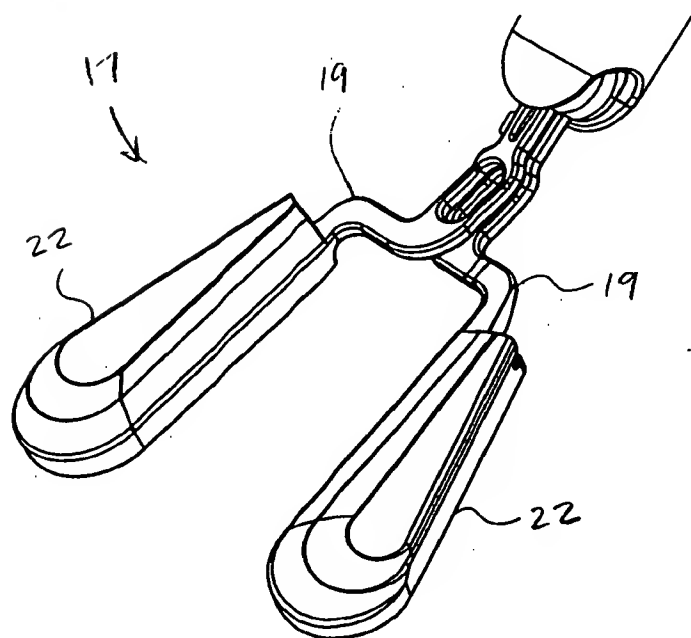


FIG. 7A

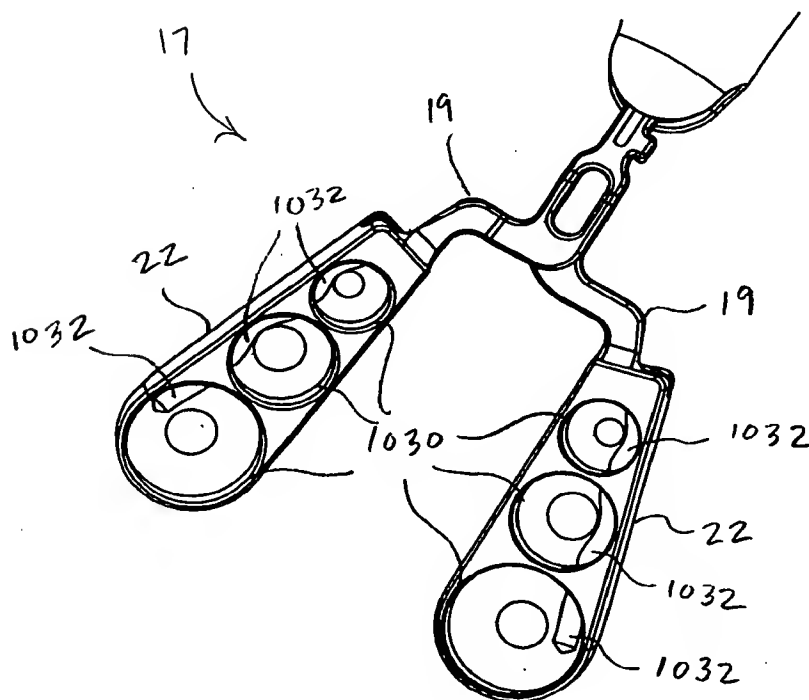
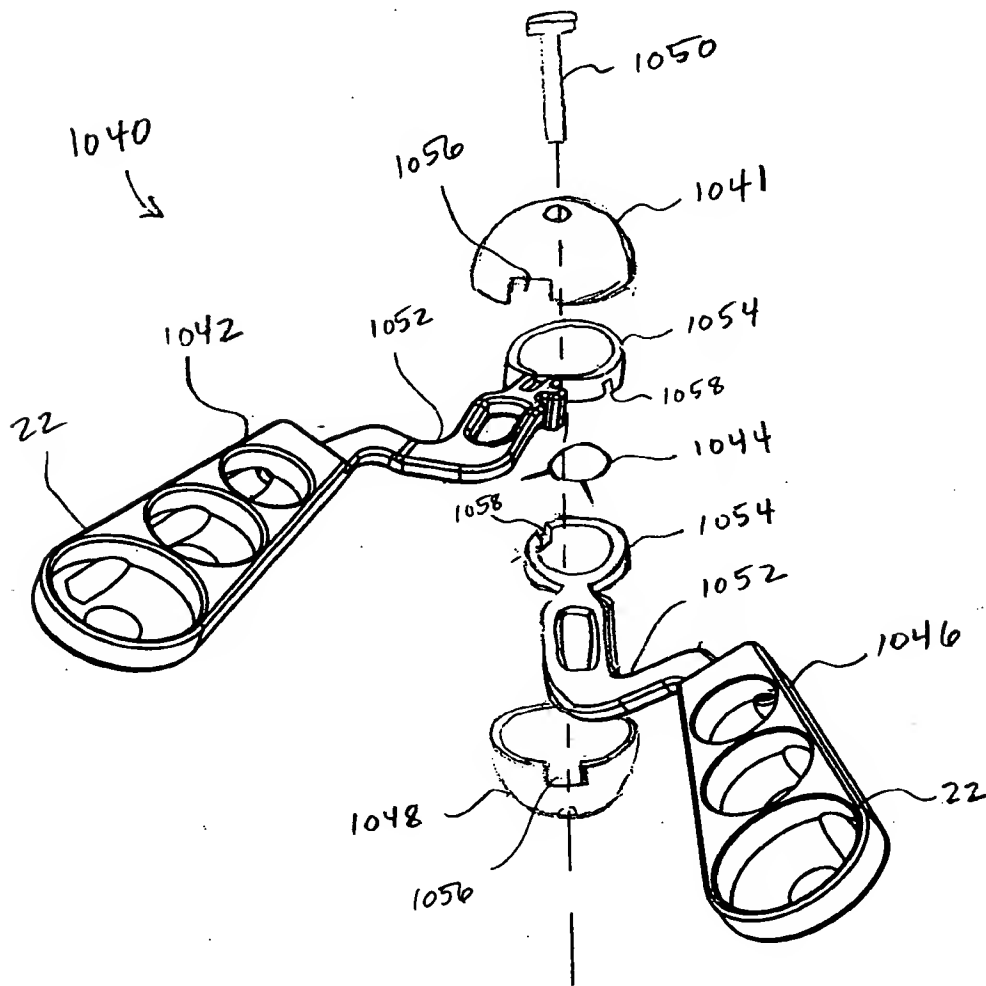


FIG. 7B



FIG_8

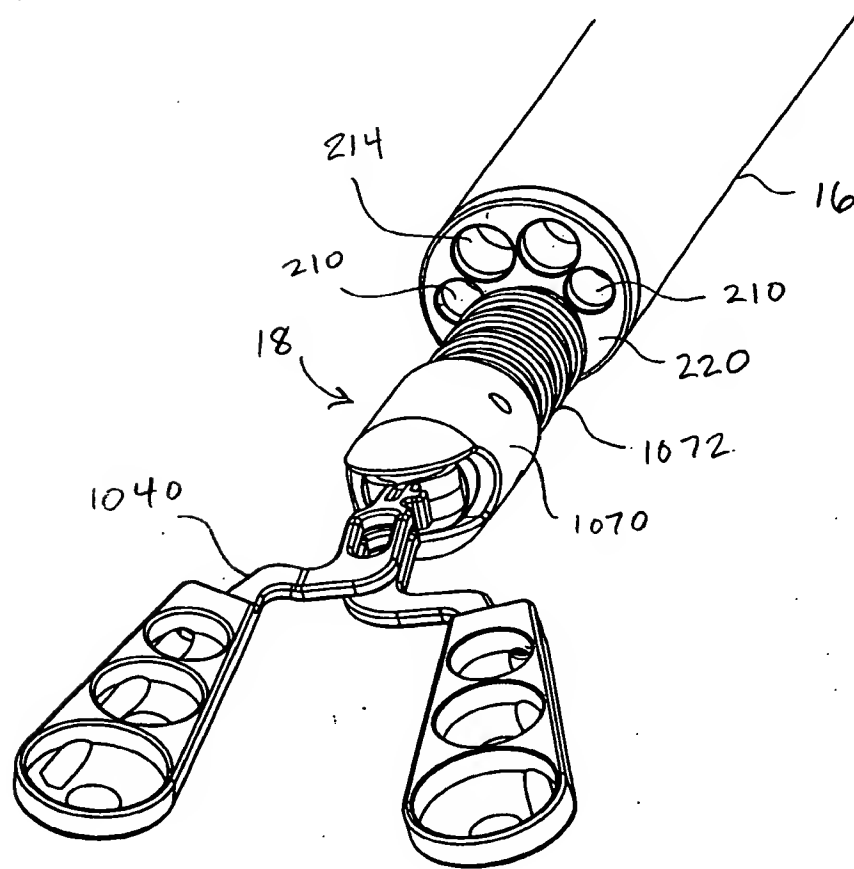


FIG. 9A

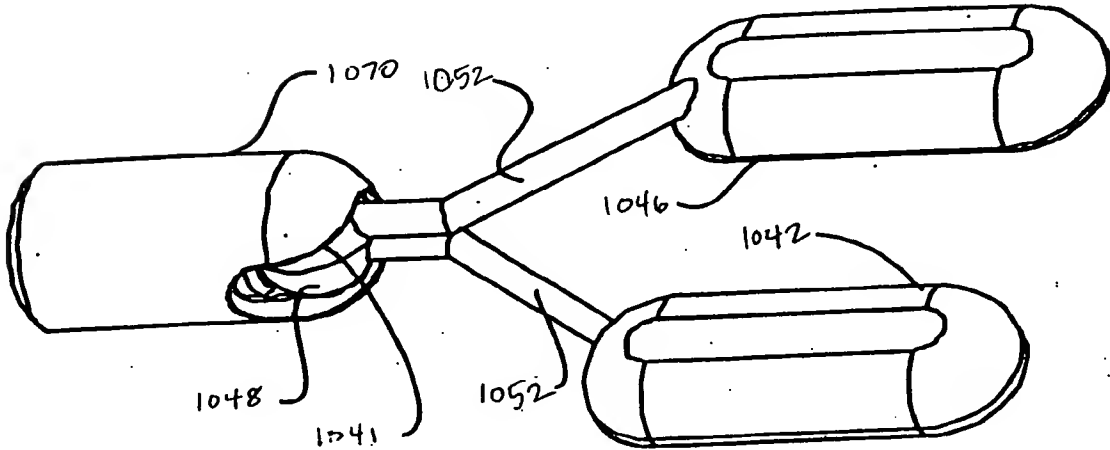


FIG. 9B

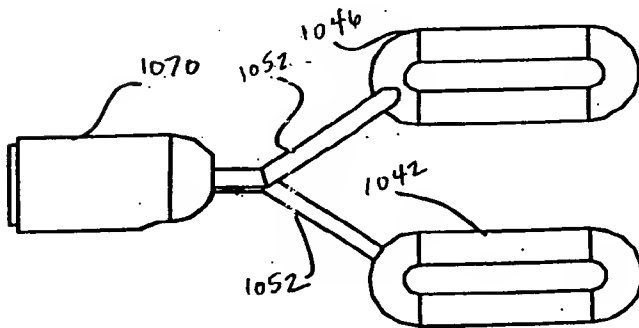


FIG. 9C

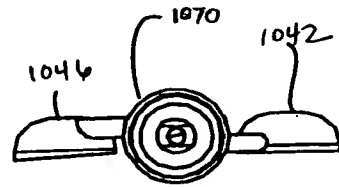


FIG. 9D

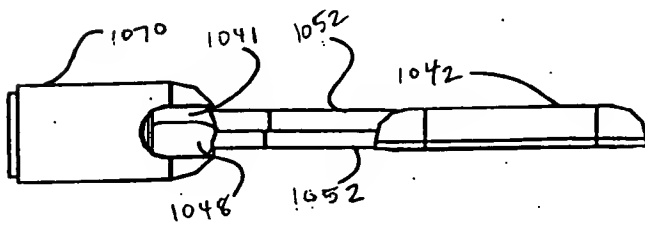


FIG. 9E

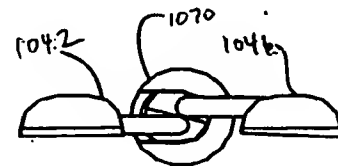


FIG. 9F

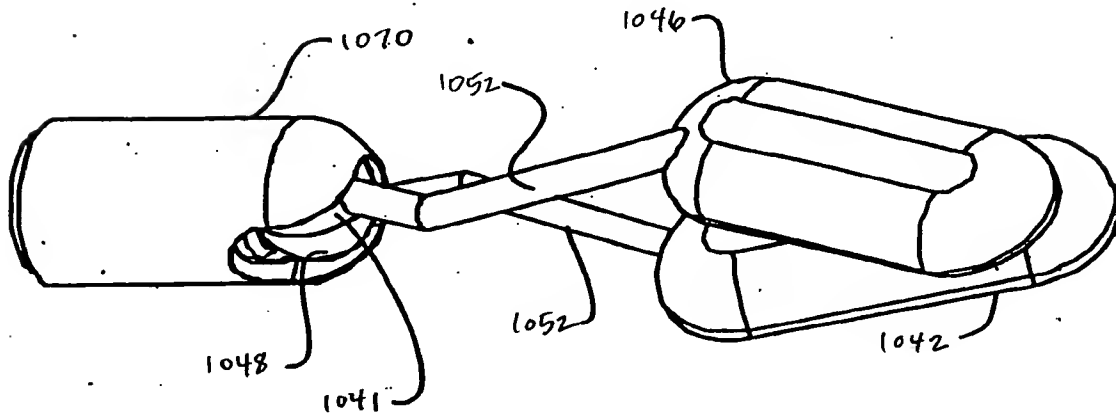


FIG-9G

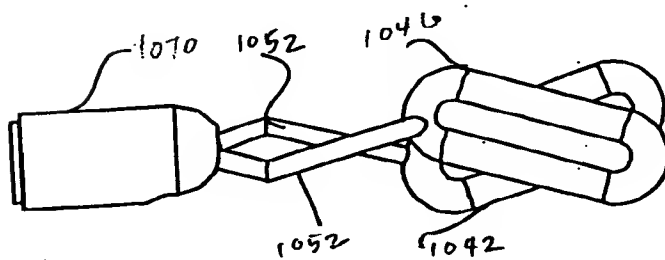


FIG-9H

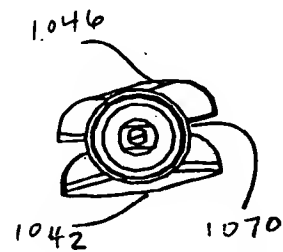


FIG-9I

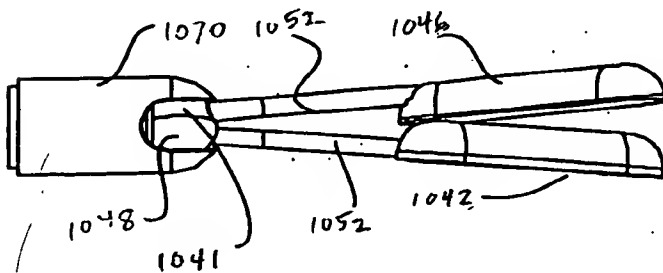


FIG-9J

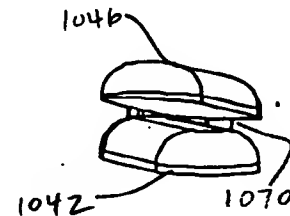
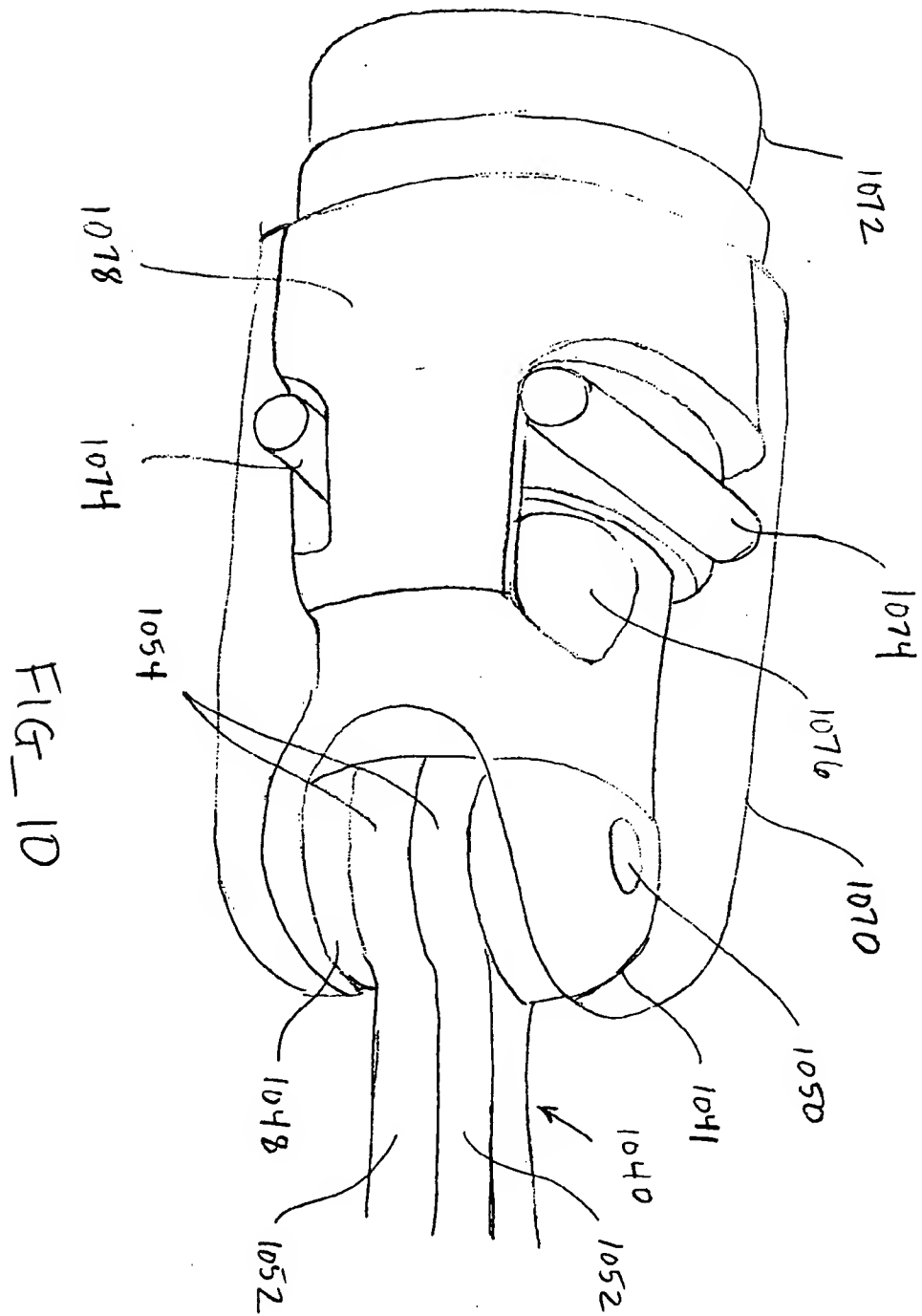


FIG-9K



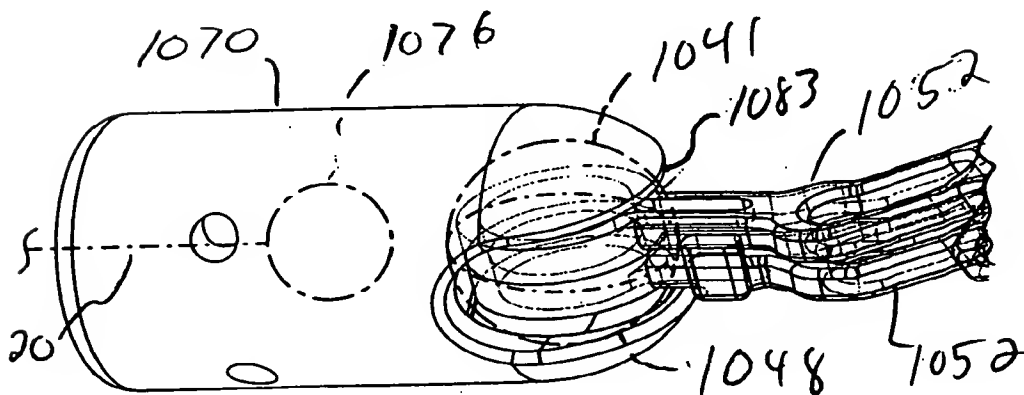


FIG. 11A

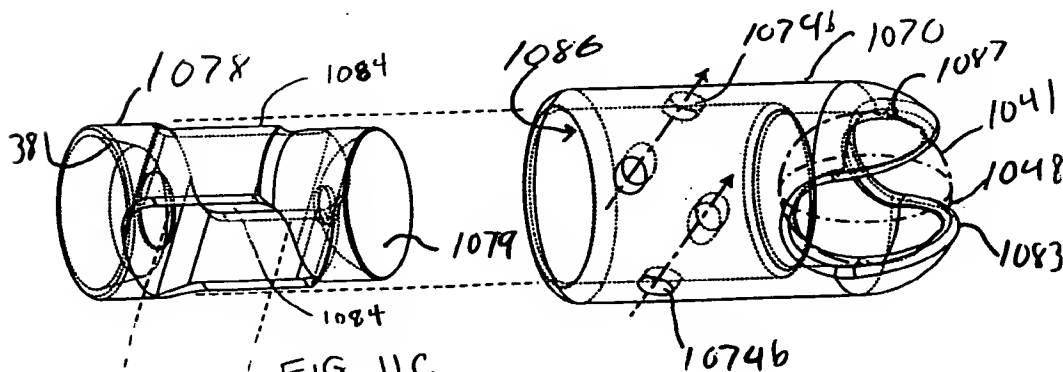


FIG. 11C

FIG. 11D

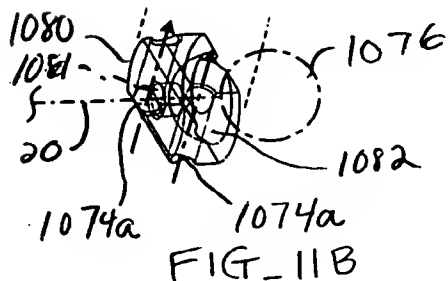
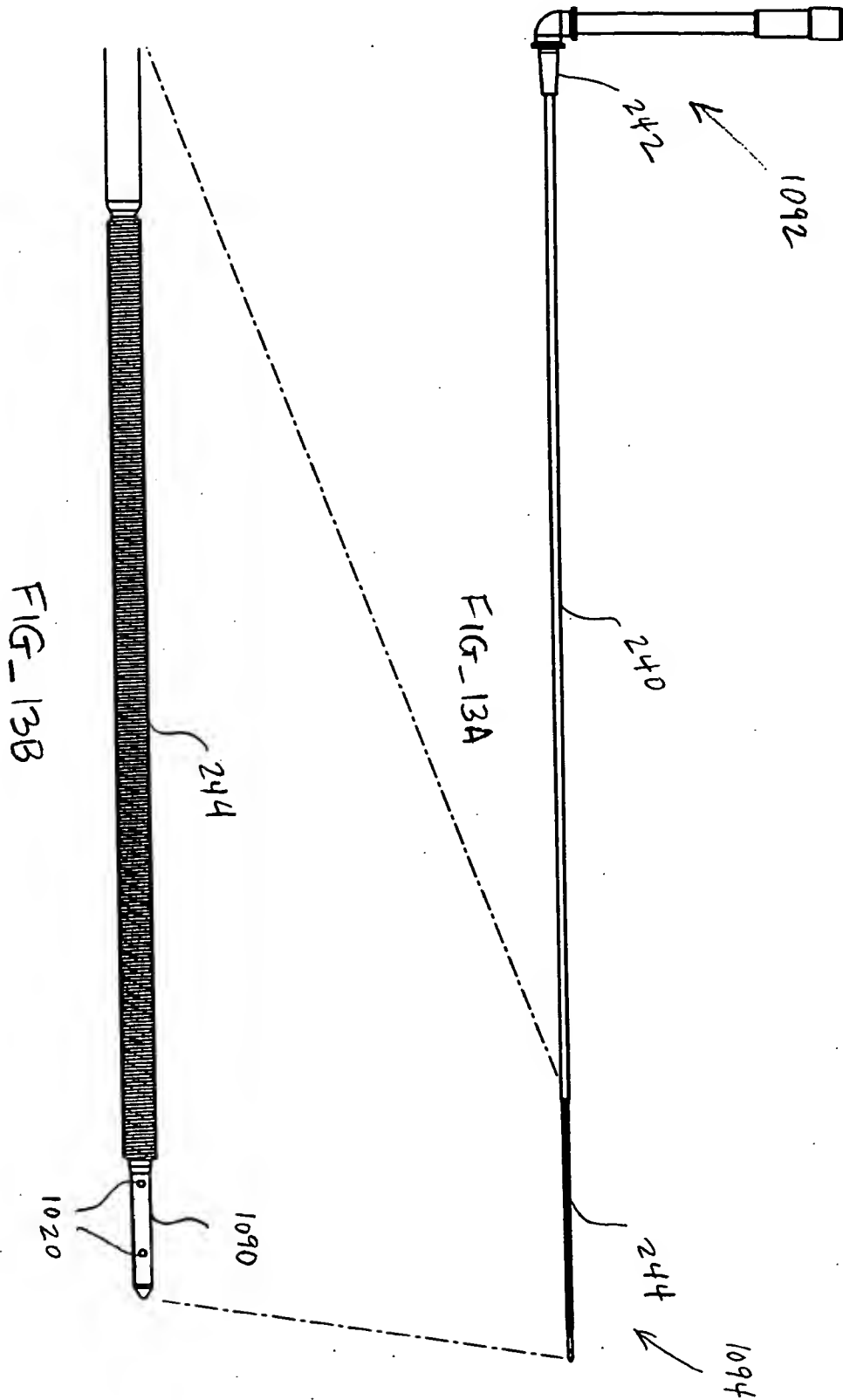


FIG. 11B



FIG. 11E



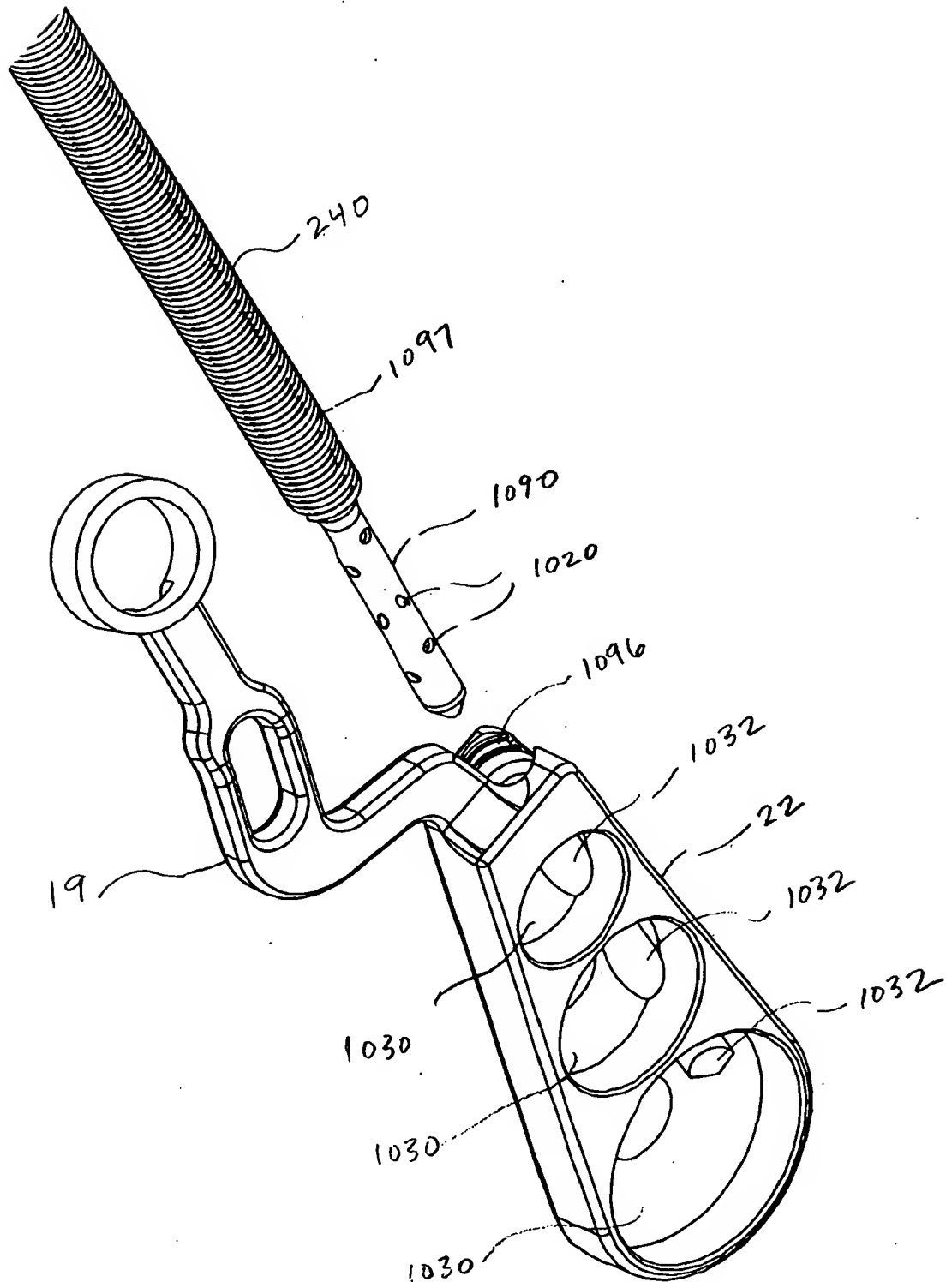


FIG. 14

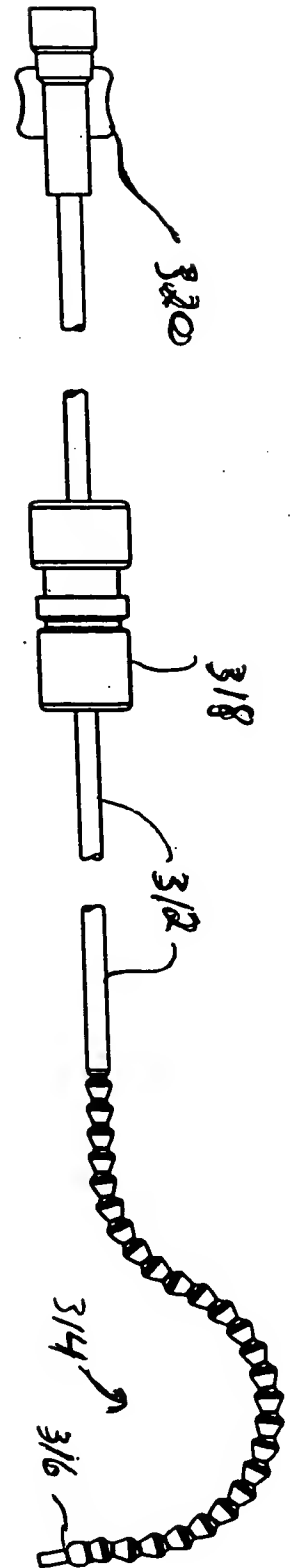


Fig. 15

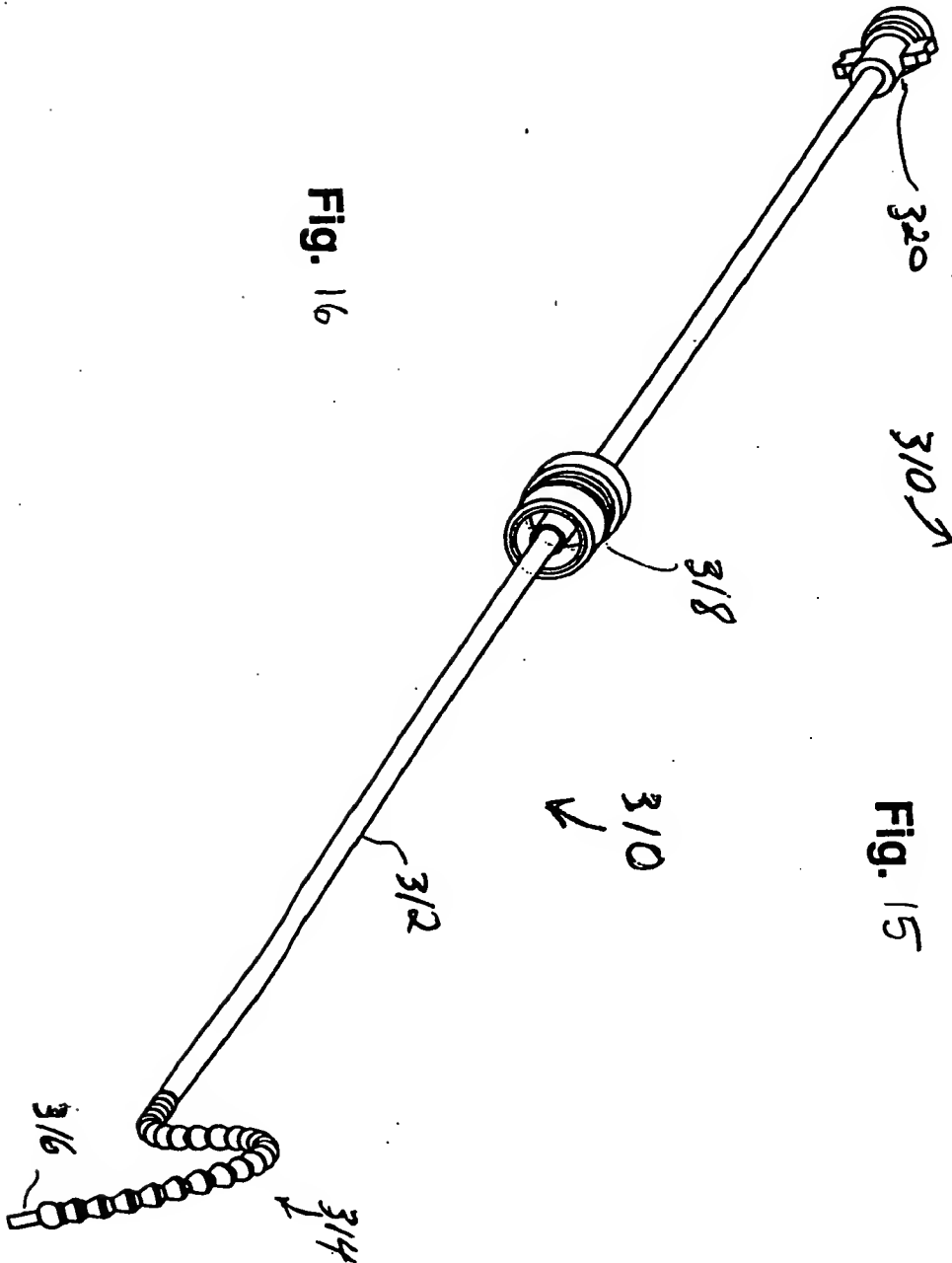
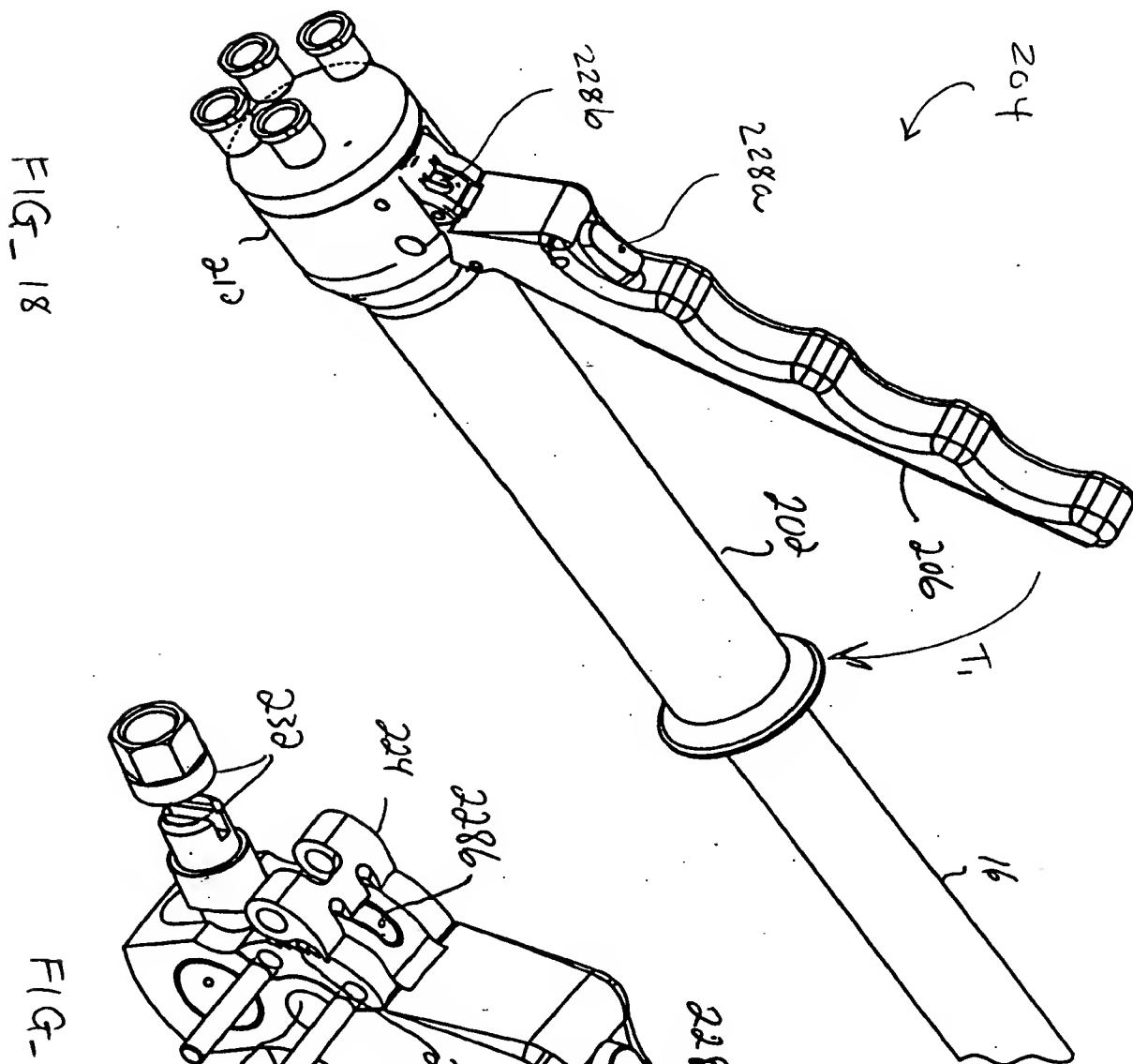


Fig. 16



F1G-18

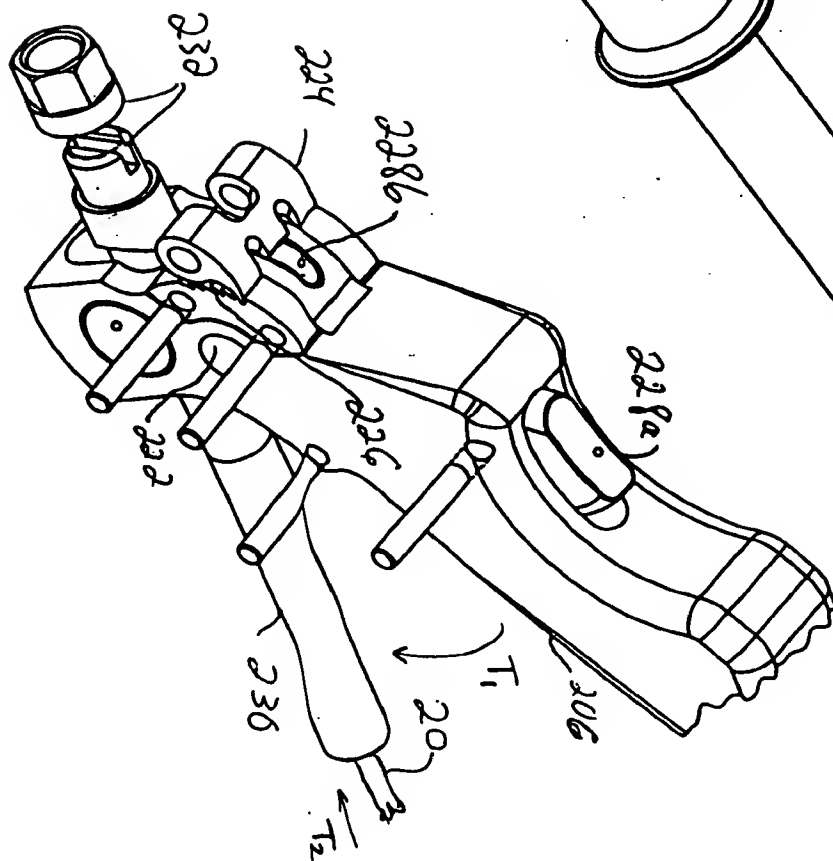


FIG-19

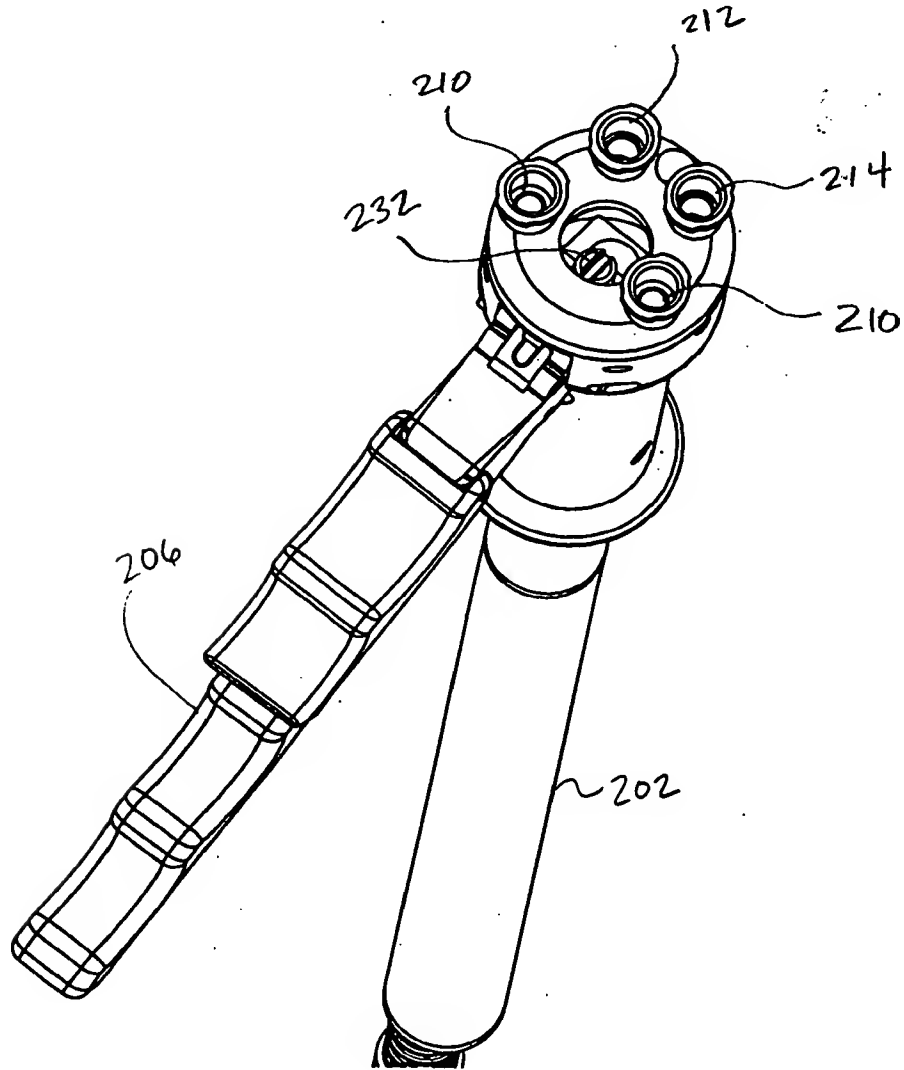


FIG-20

FIG-21

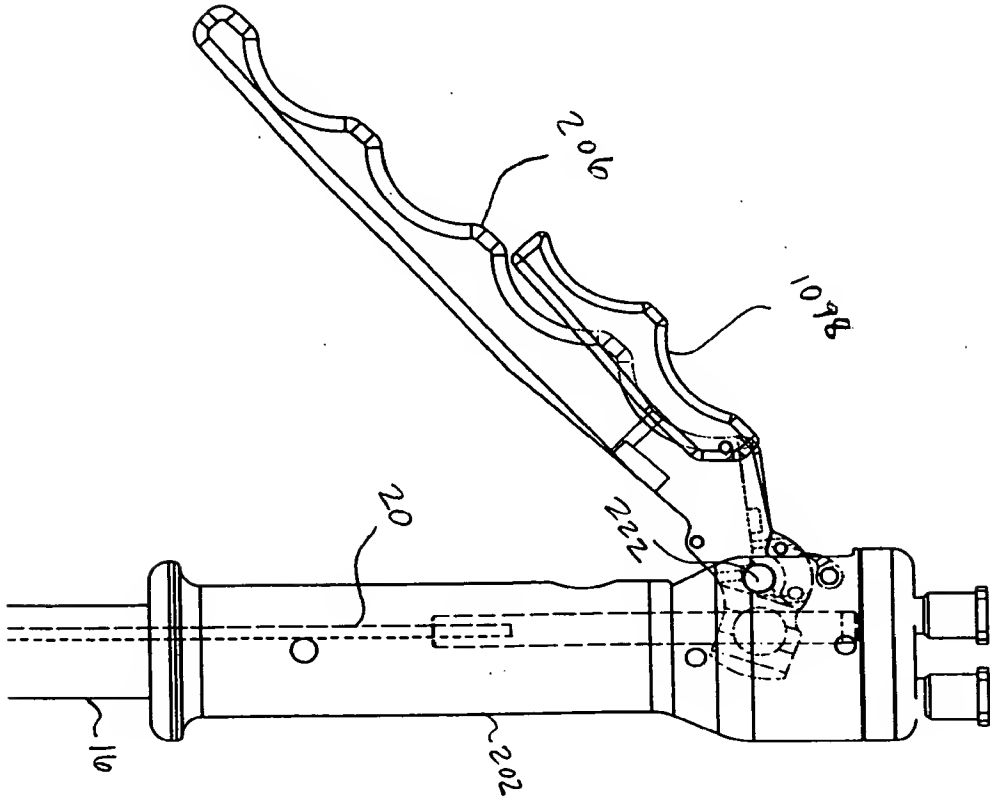
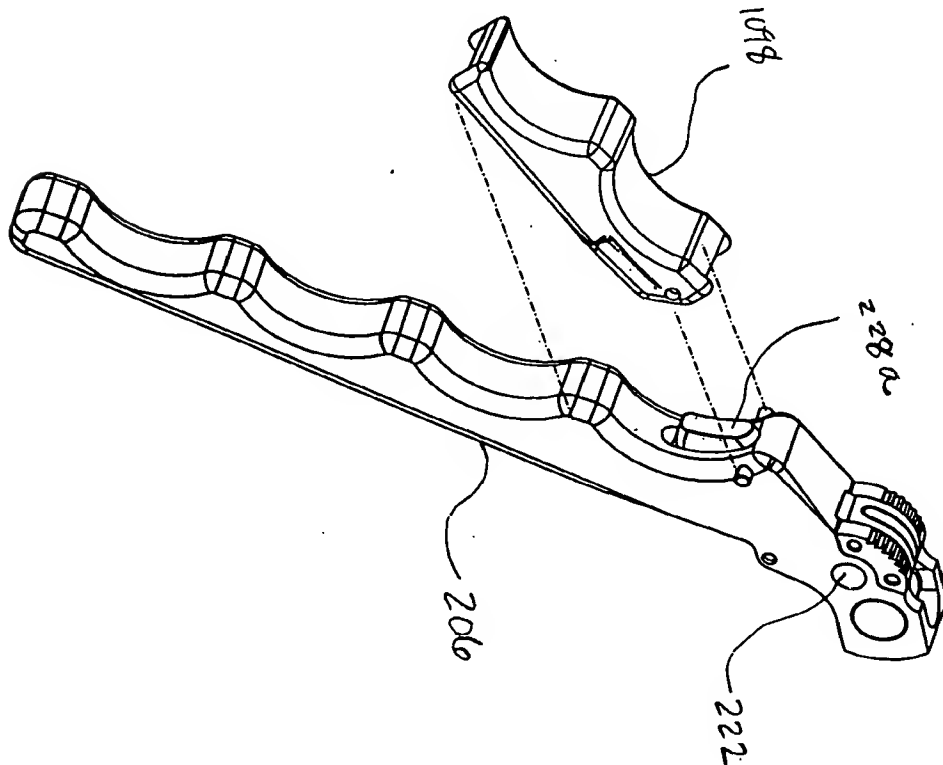
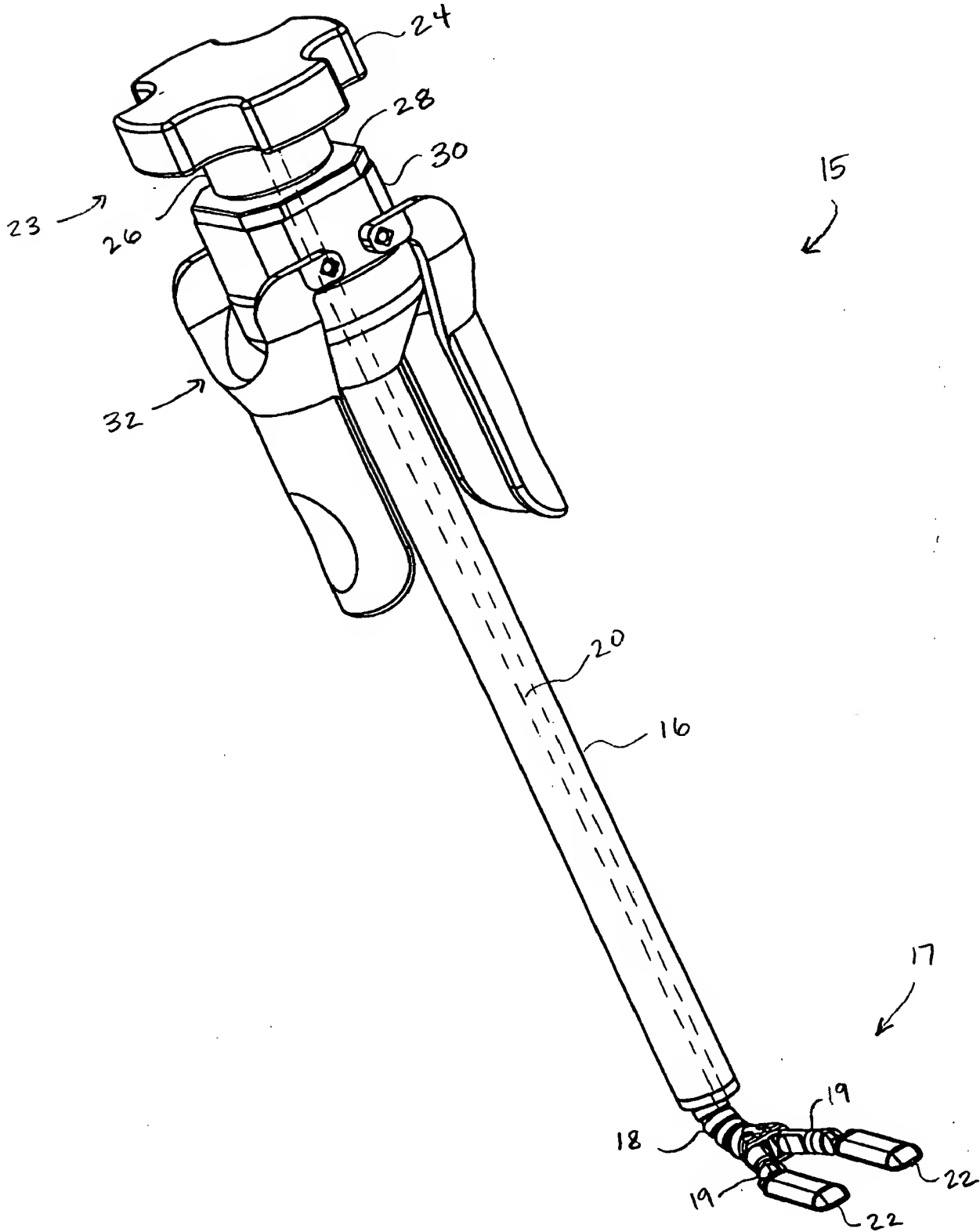


FIG-22





FIG_23

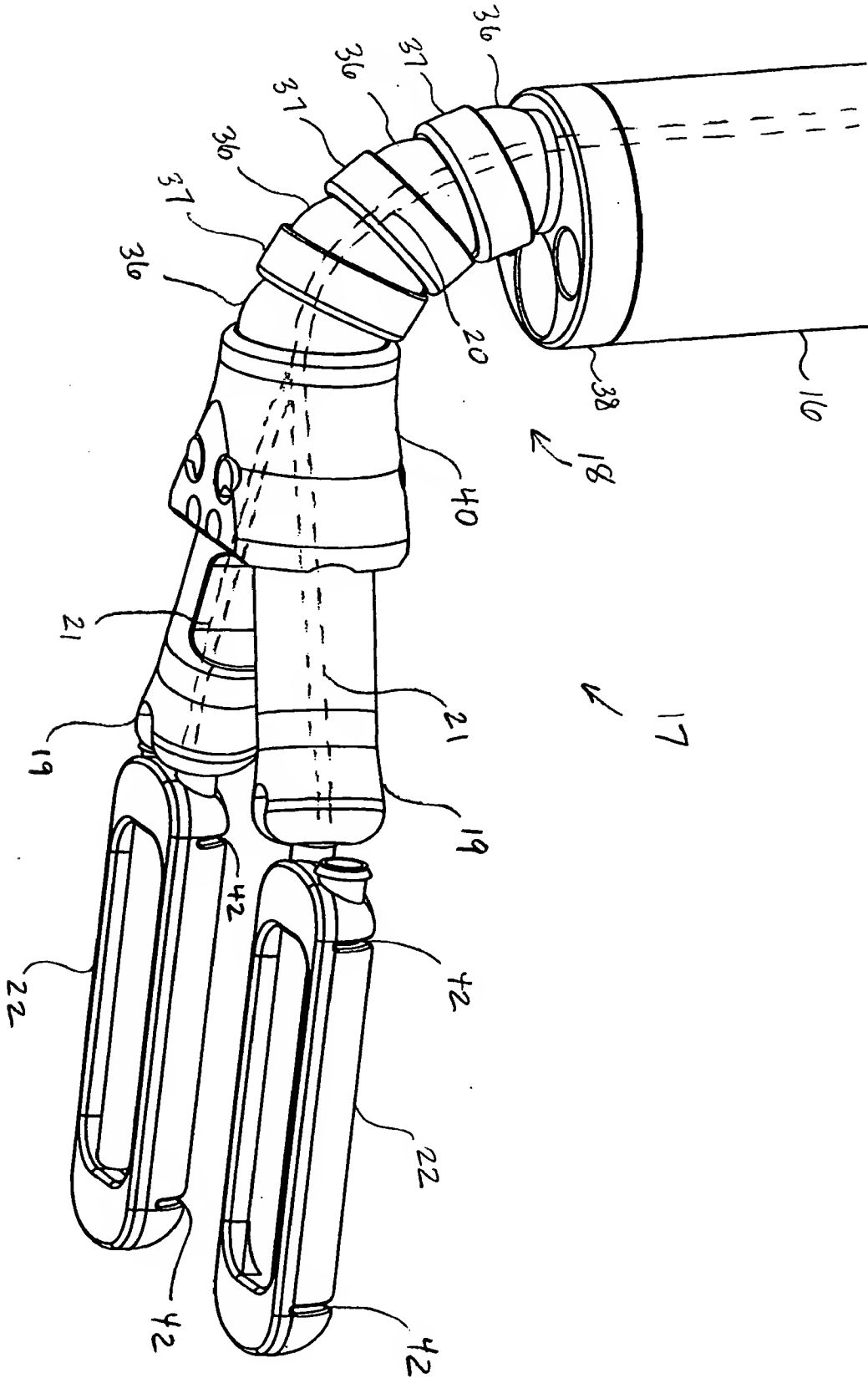
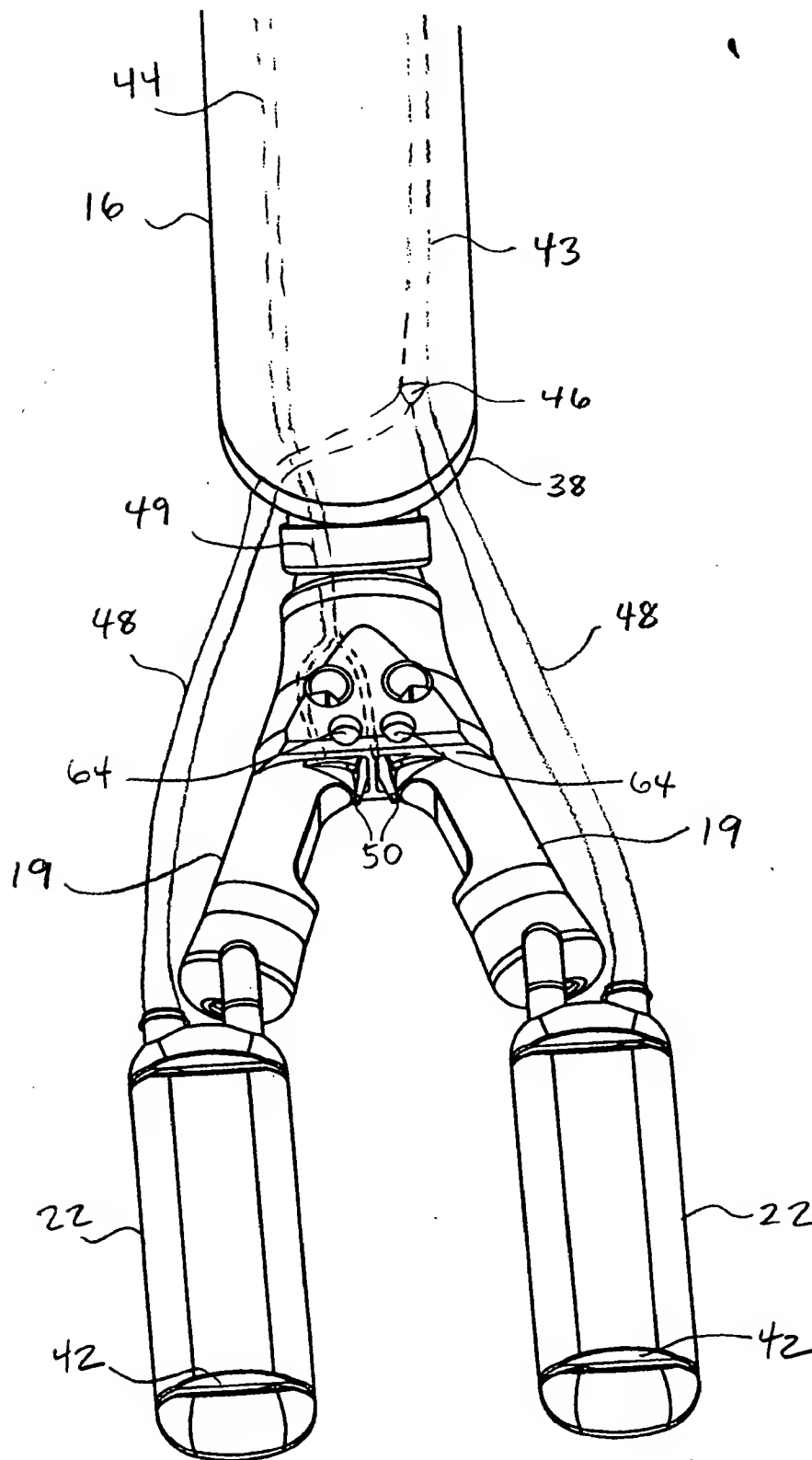
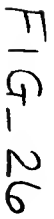
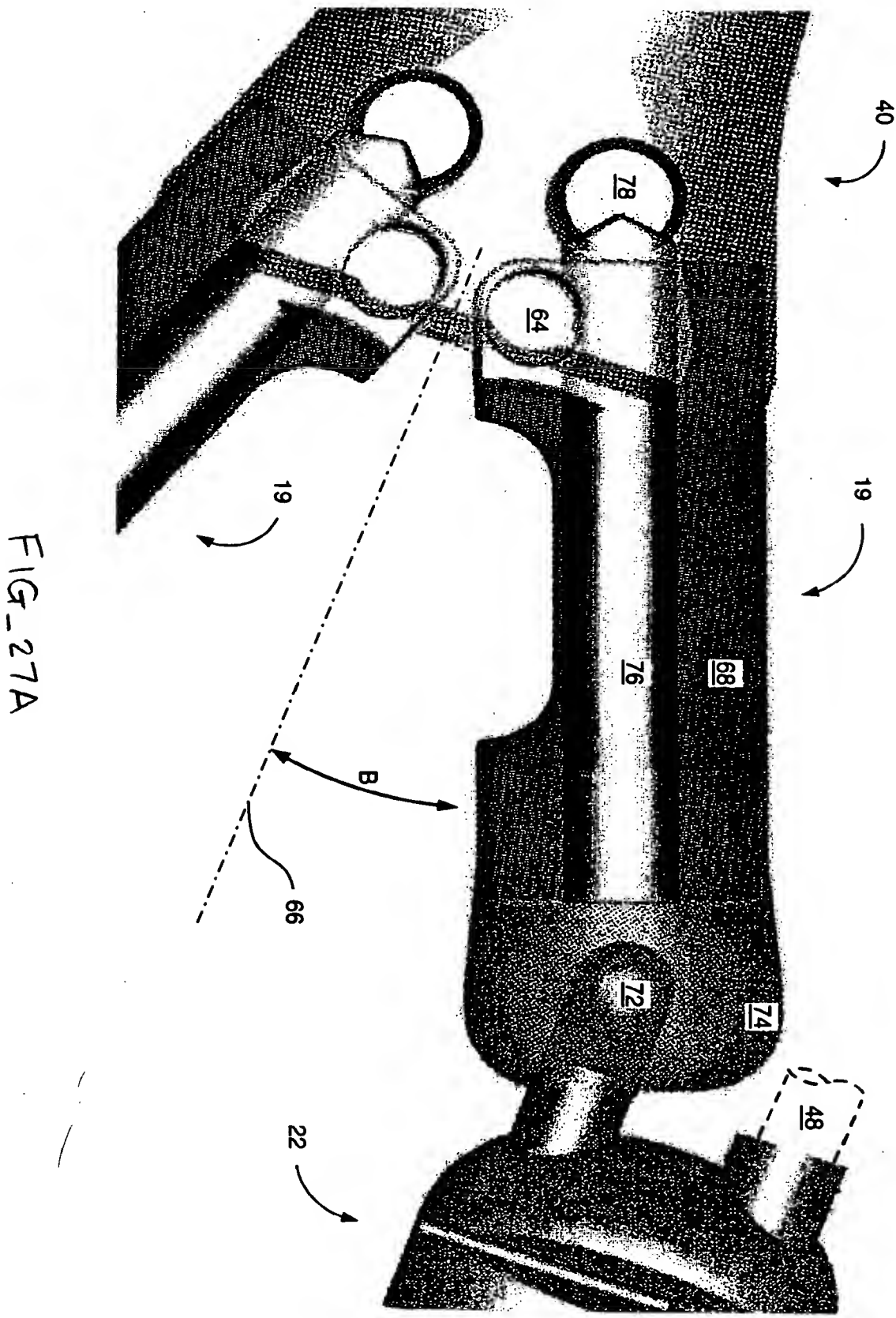


FIG. 24



FIG_25





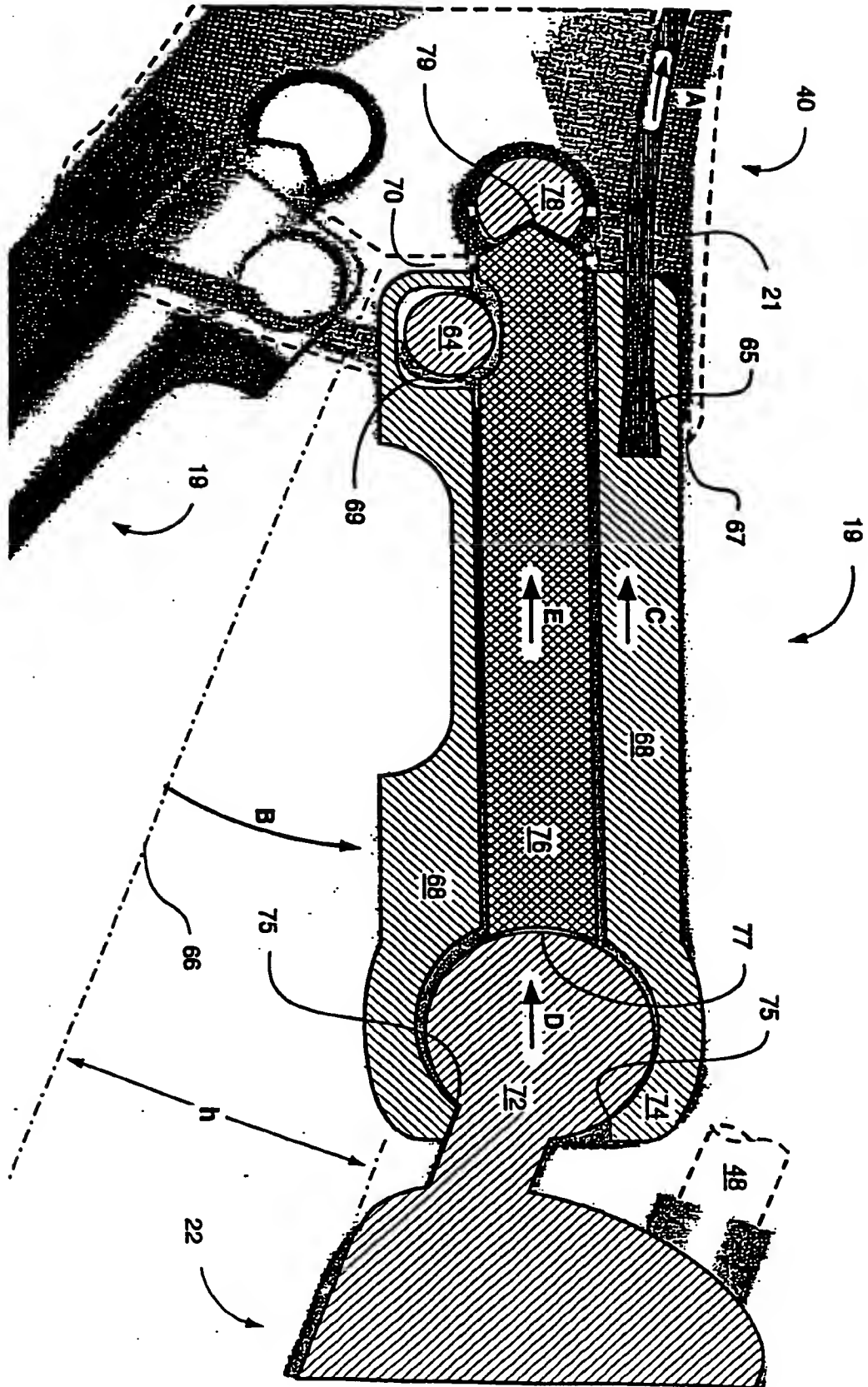


FIG-27B

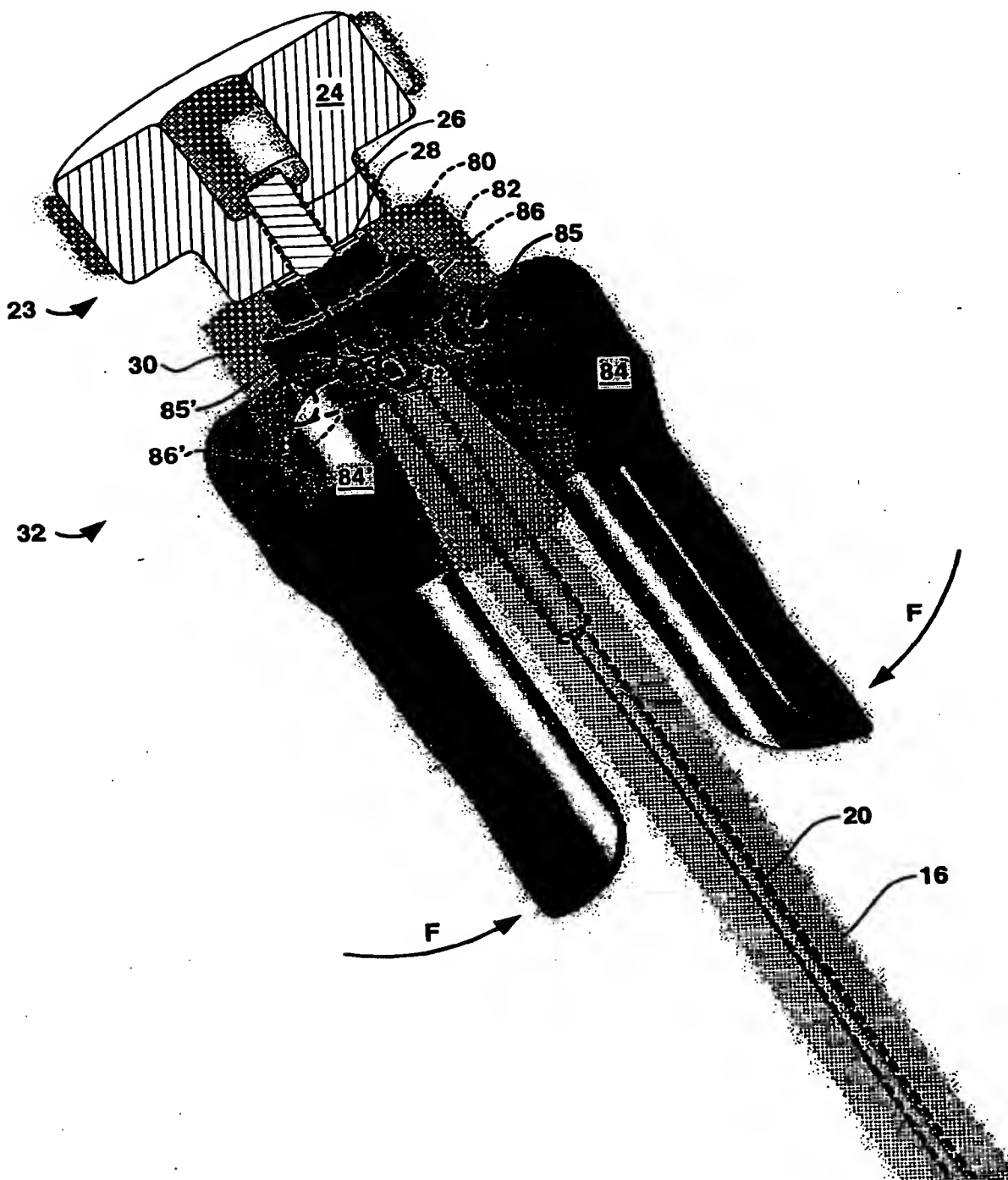


FIG-28A

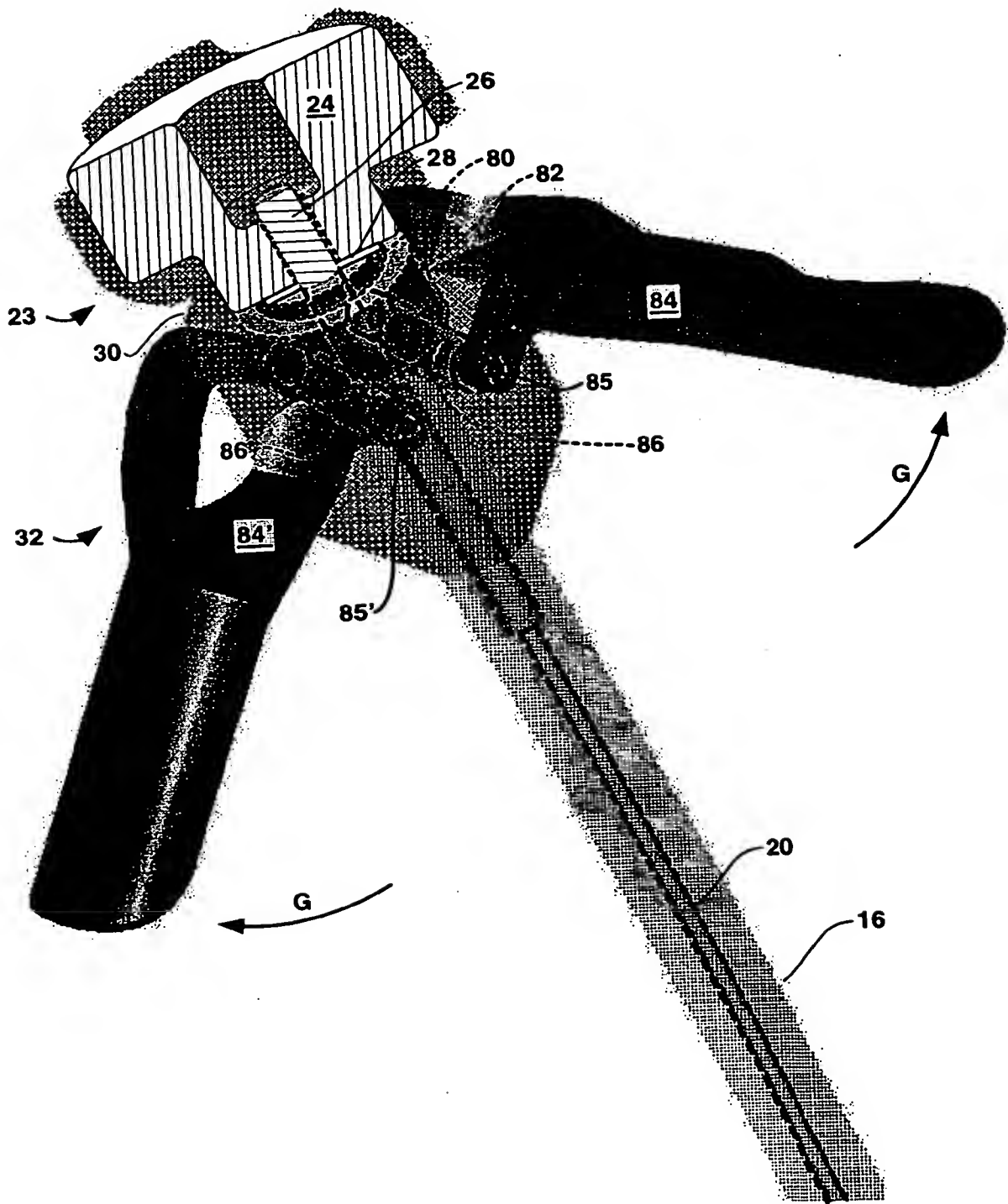
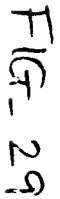
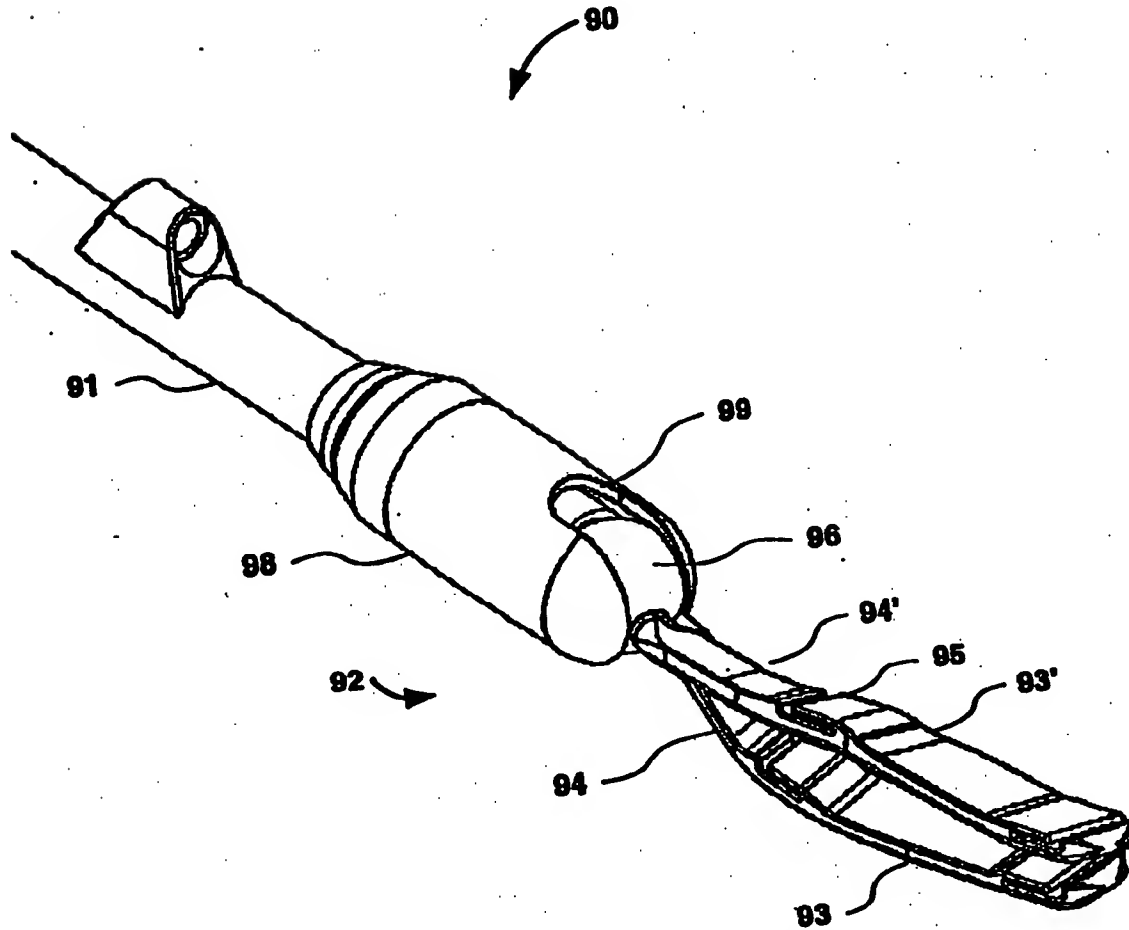


FIG. 28B





FIG_30

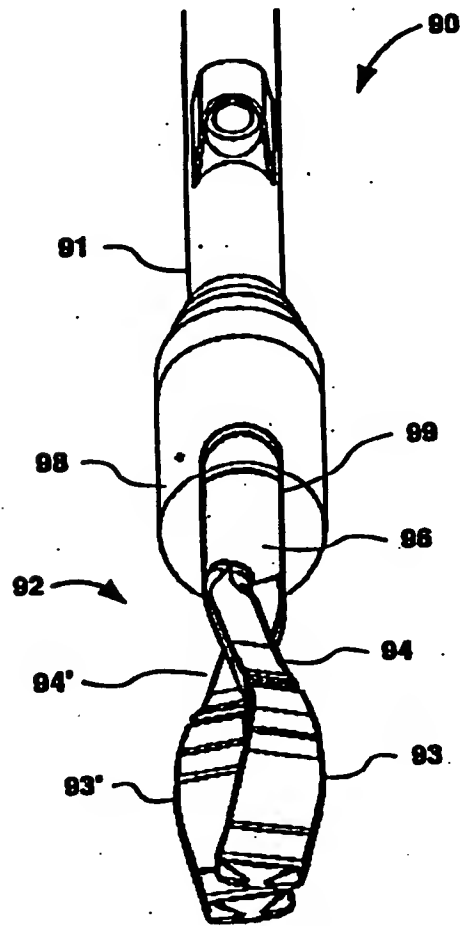


FIG 31

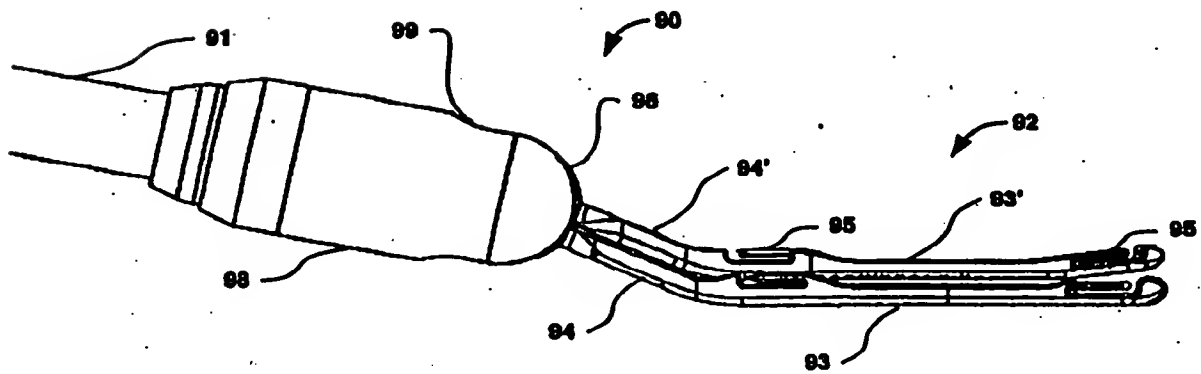


FIG-32

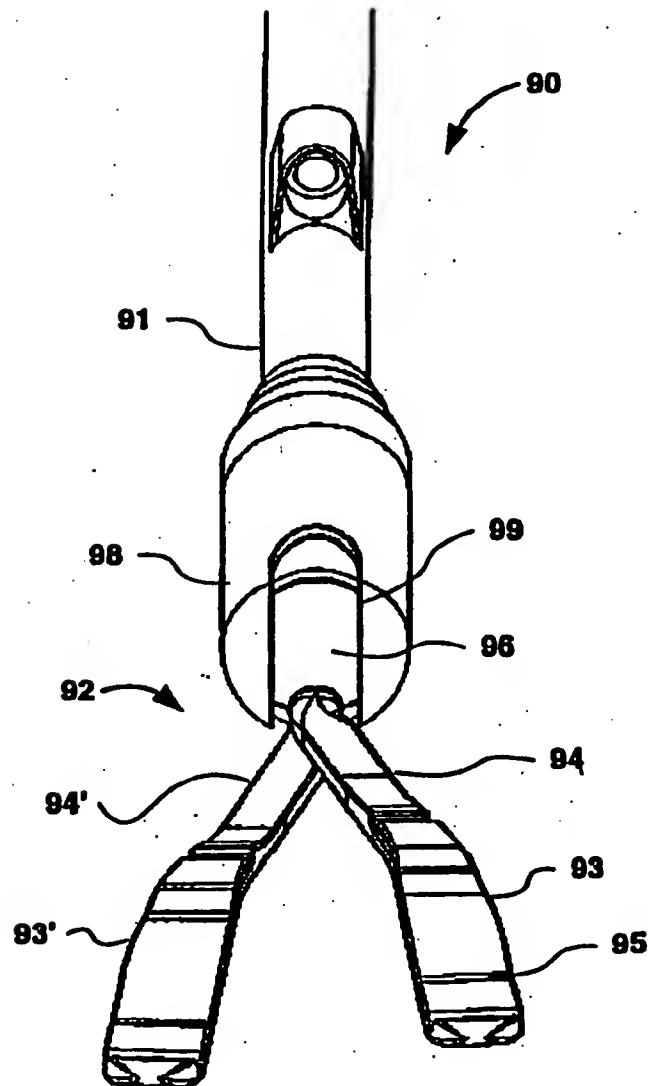
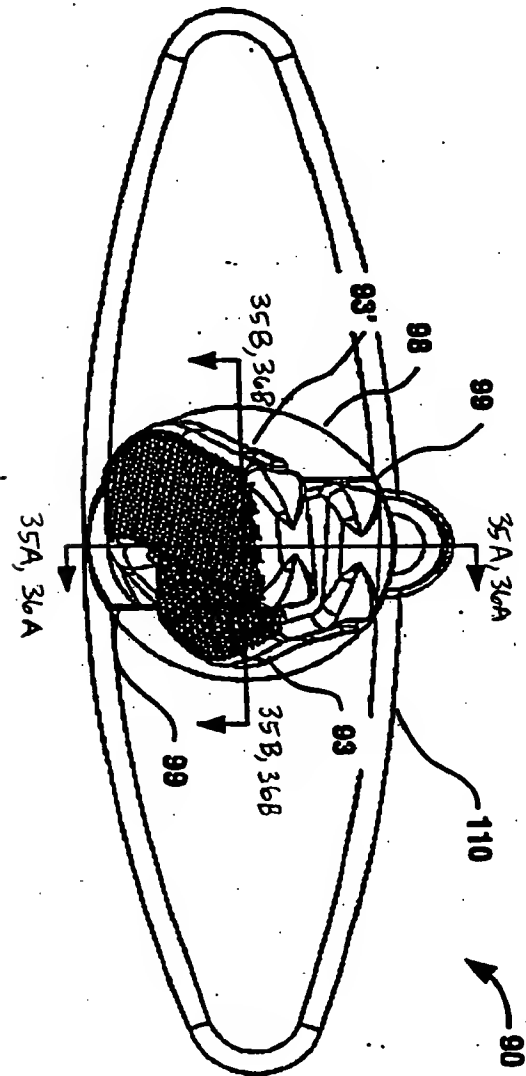
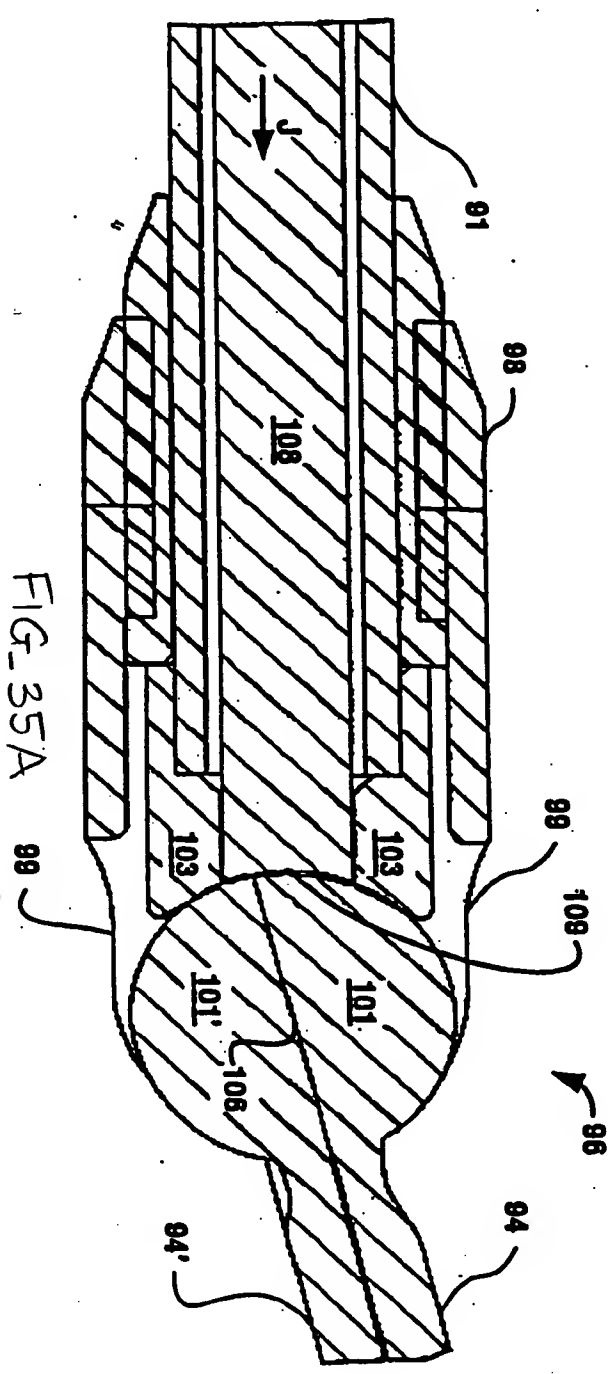
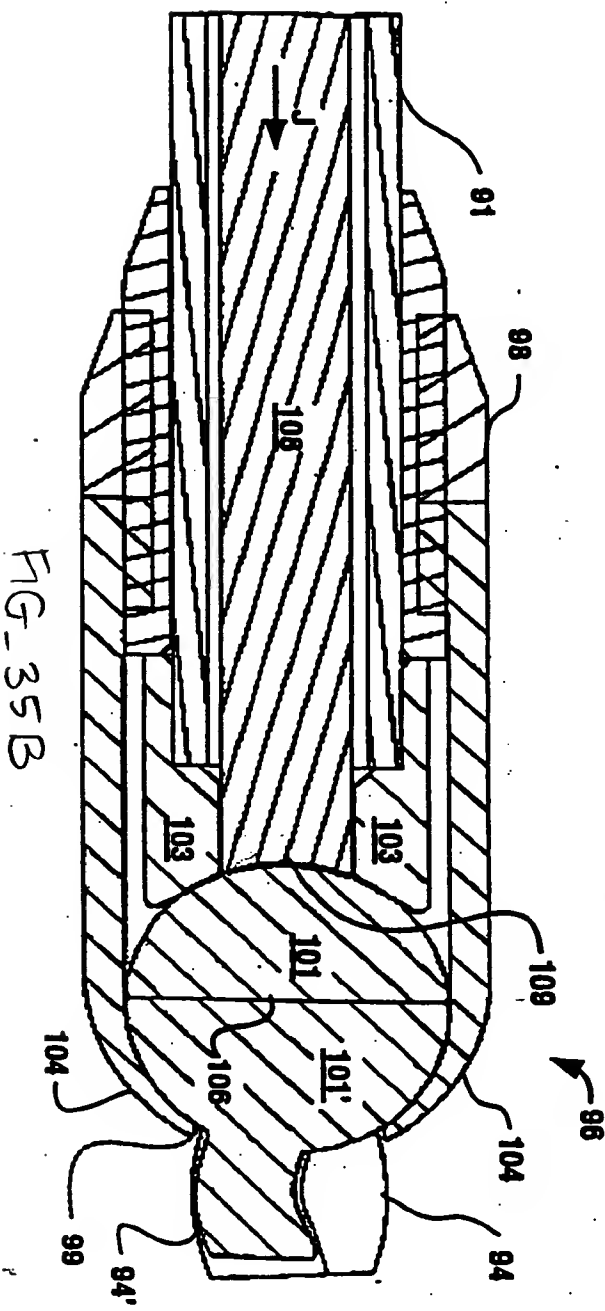
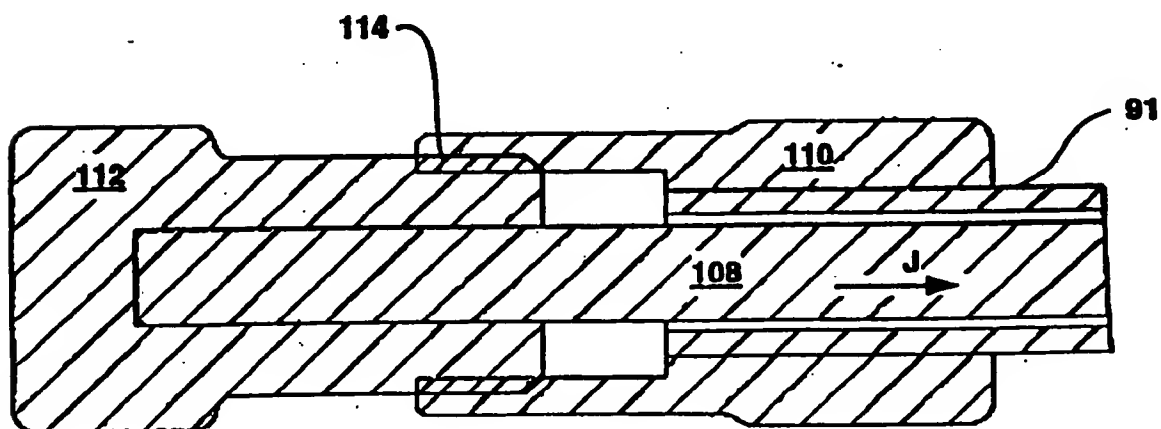
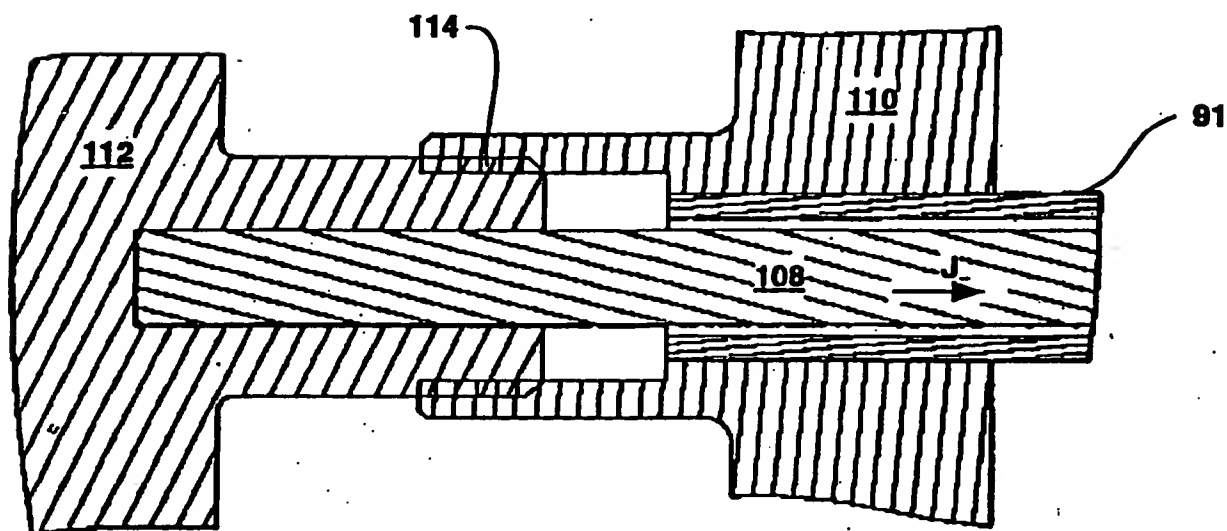


FIG-33

FIG. 34







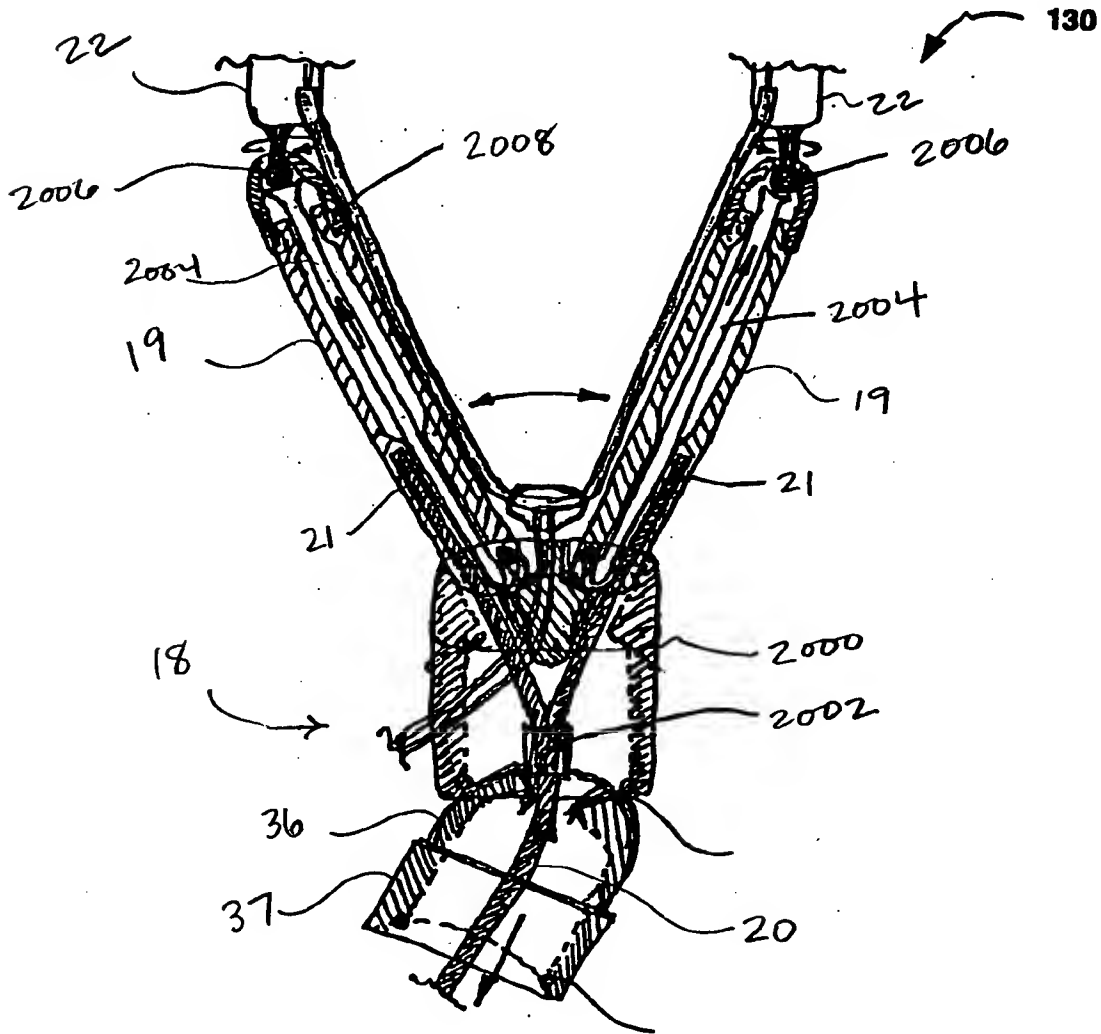


FIG. 37

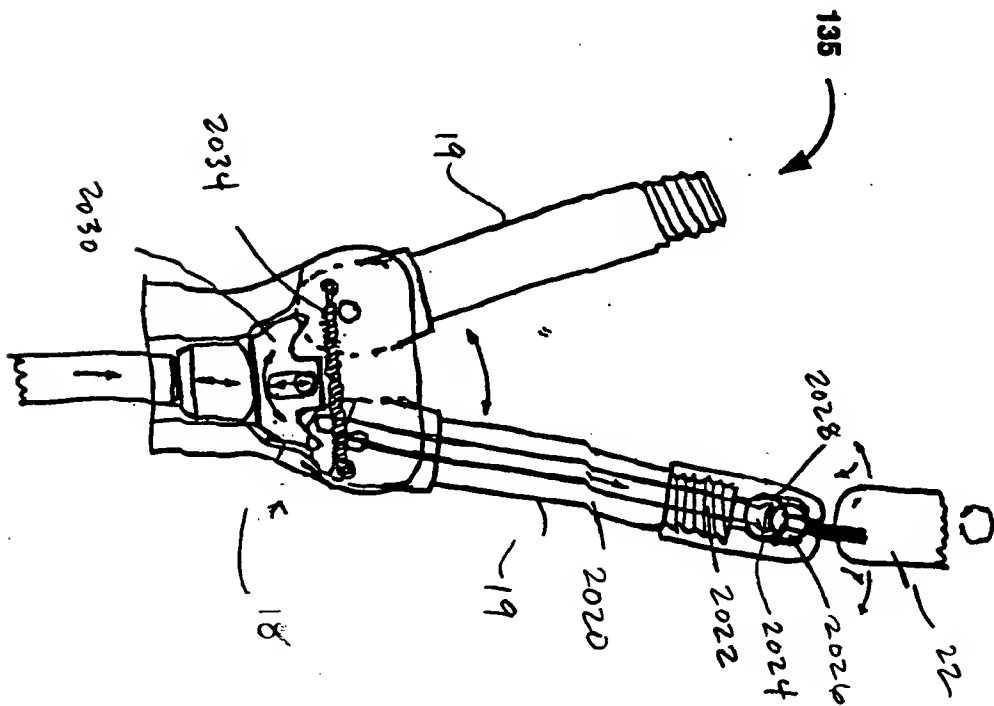


FIG-38A

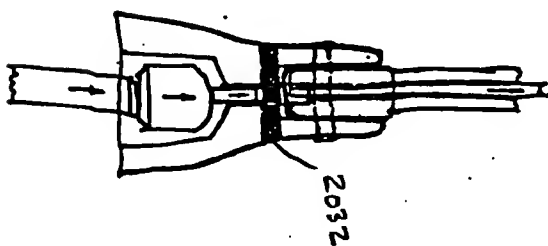


FIG-38B

FIG-39A

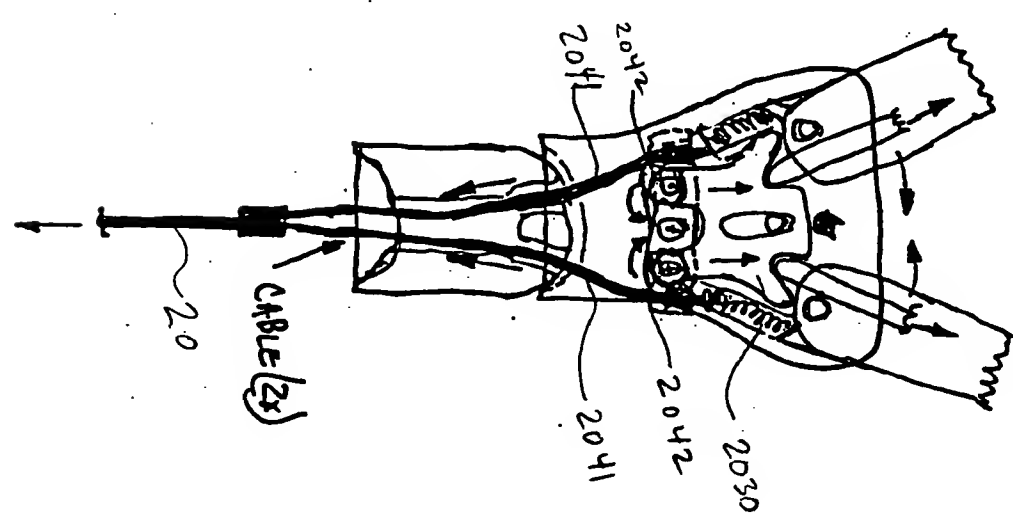
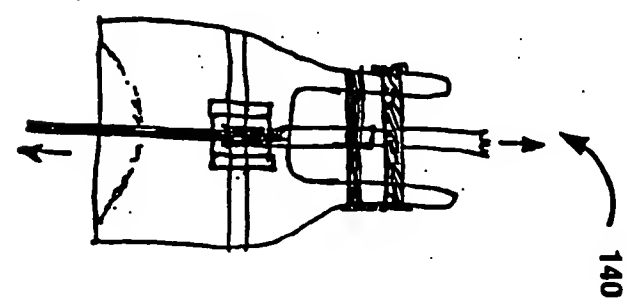
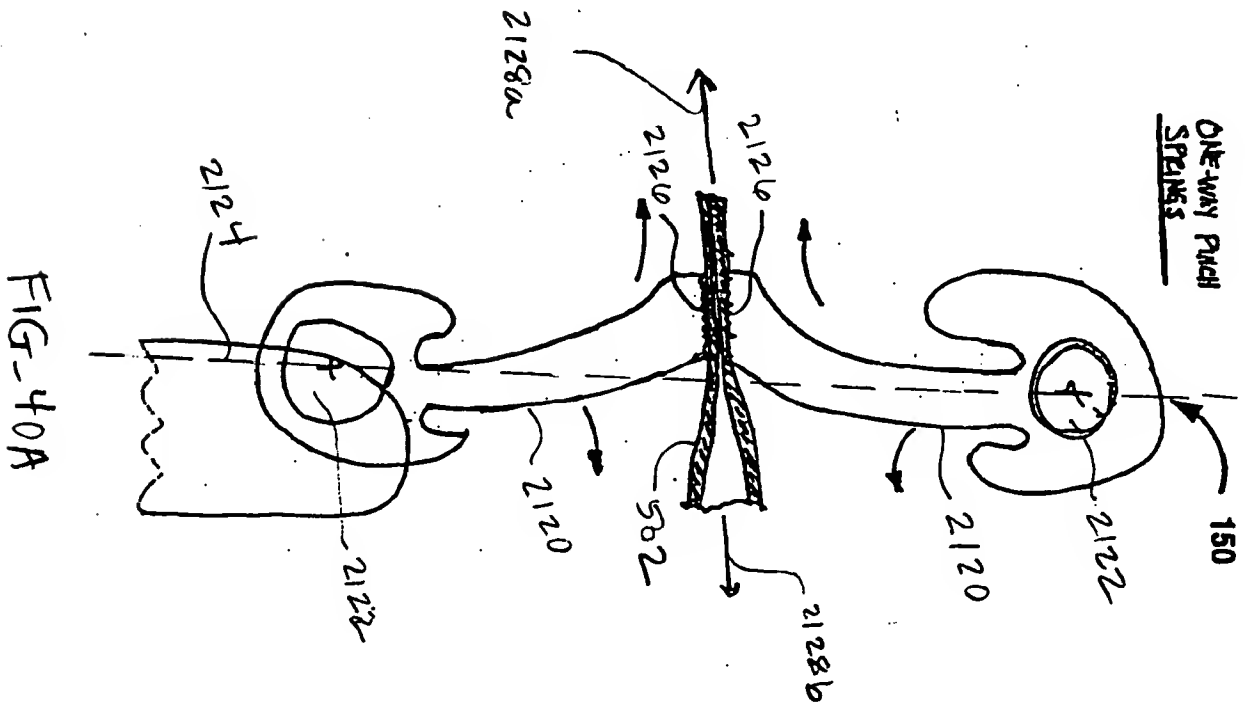
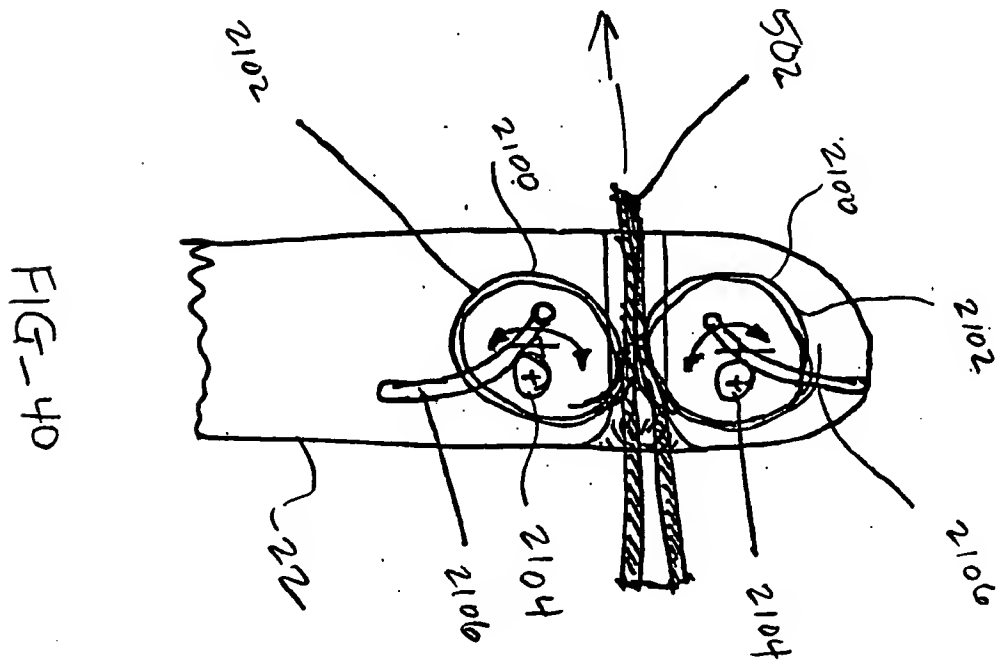


FIG-39B





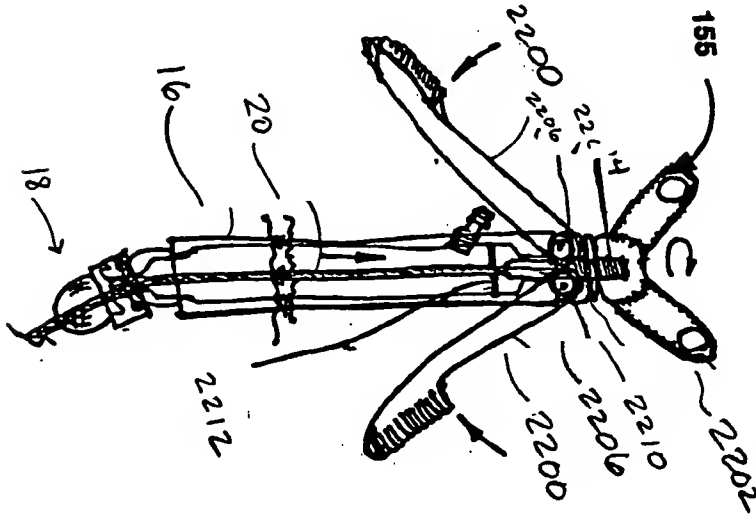


FIG-41A

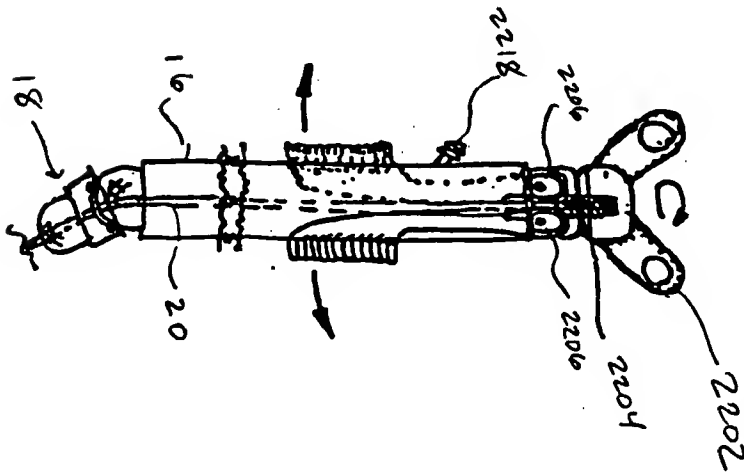


FIG-41B

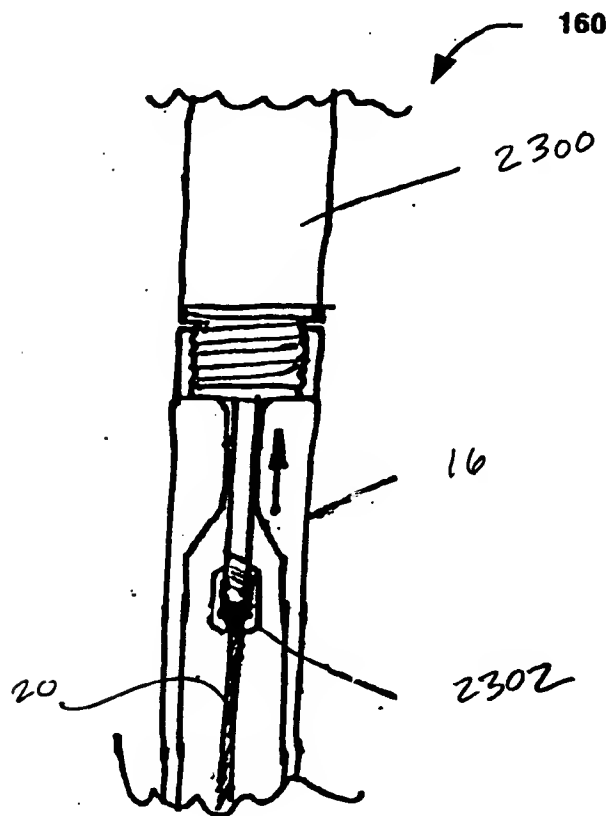
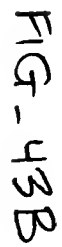
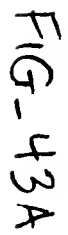
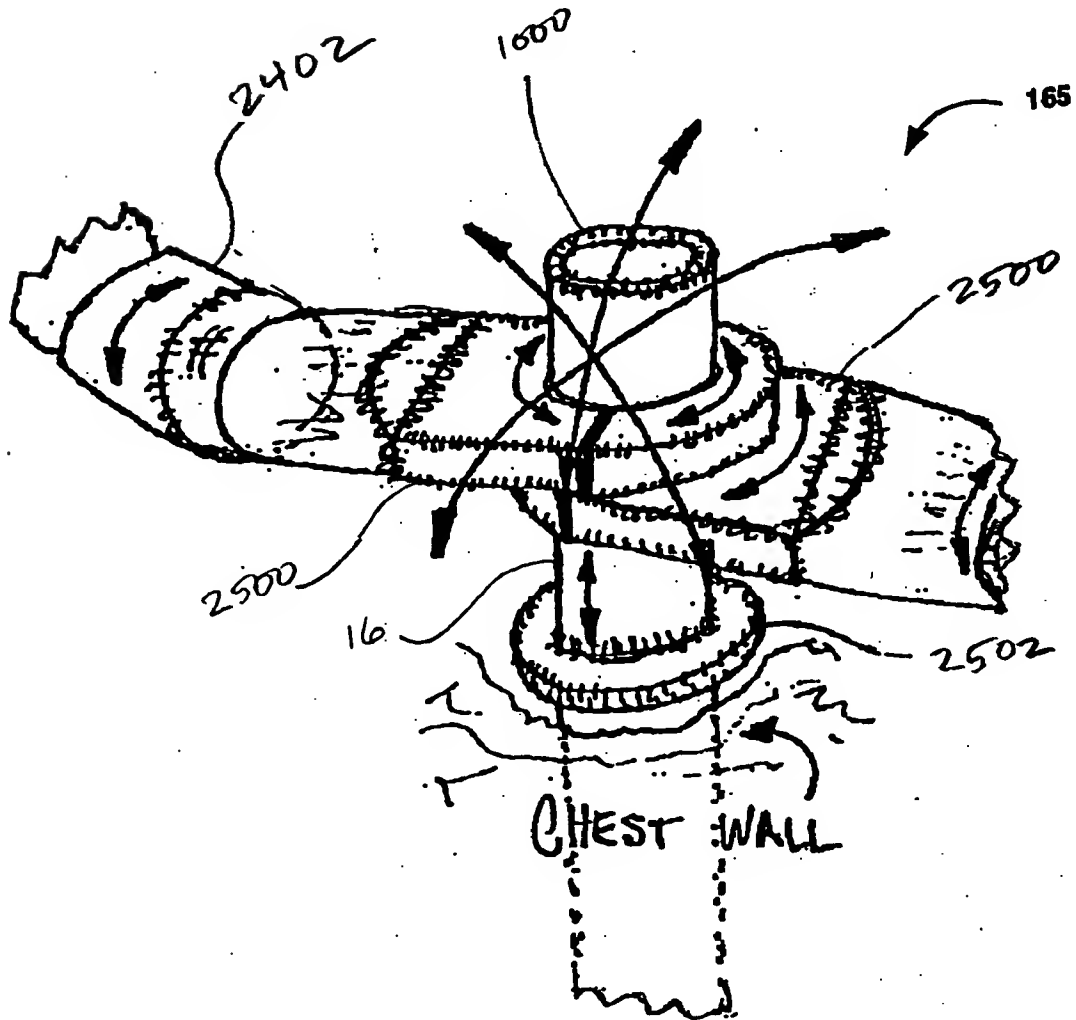
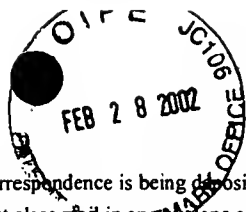


FIG. 42





FIG_43C



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PATENT
Attorney Docket No.: 17516-002580US

By: Kimberly Badieli
Kimberly Badieli

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

JULIAN, Christopher A. et al.

Application No.: 09/998,004

Filed: November 28, 2001

For: ENDOSCOPIC BEATING-HEART
STABILIZER AND VESSEL OCCLUSION
FASTENER

Examiner: Unassigned

Art Unit: 3739

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Assistant Commissioner for Patents
Office of Initial Patent Examination
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Washington, D.C. 20231

Sir:

Attached is a copy of the official Filing Receipt received from the Patent and Trademark Office in the above-noted application for which issuance of a corrected filing receipt is respectfully requested.

There is an error in that the Drawings should read as follows:

45

The correction is not due to any error by applicant and no fee is due. Please charge any additional fees or credit overpayment to the Deposit Account No. 20-1430. This Petition is submitted in triplicate.

Respectfully submitted,

Lynn M. Thompson
Lynn M. Thompson
Reg. No. 47,991

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APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/998,004	11/28/2001	3739	0.00	017516- 002580US	29 45	102	12

CONFIRMATION NO. 3890

20350
 TOWNSEND AND TOWNSEND AND CREW, LLP
 TWO EMBARCADERO CENTER
 EIGHTH FLOOR
 SAN FRANCISCO, CA 94111-3834

FILING RECEIPT



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Date Mailed: 12/17/2001

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Applicant(s)

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 Dean F. Hoornaert, Mountain View, CA;
 Margaret M. Isaac, Redwood City, CA;

Assignment For Published Patent Application

Intuitive Surgical, Inc., Mountain View, CA;

Domestic Priority data as claimed by applicant

THIS APPLN CLAIMS BENEFIT OF 60/253,484 11/28/2000
 AND CLAIMS BENEFIT OF 60/285,641 04/19/2001
 AND CLAIMS BENEFIT OF 60/290,556 05/10/2001
 AND A CIP OF 09/436,524 11/09/1999

Foreign Applications

If Required, Foreign Filing License Granted 12/17/2001

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ******Title**

Endoscopic beating-heart stabilizer and vessel occlusion fastener

Preliminary Class

600

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